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PREFACE

The publication of this series was inaugurated by the Naval War College in 1894. This is the forty-eighth volume in the series as numbered for index purposes; the titles have varied slightly from year to year. The preceding volume, *International Law Documents 1950-1951*, was published in 1951, and contained the texts of conventions on the protection of victims of war, from 1848 to 1949.

The present volume contains texts exhibiting international, especially European, cooperation in the military, economic, and political fields. It includes, first, a section on World War II peace treaties signed in 1951 and 1952; second, texts of defense agreements and related documents which are designed to set up systems of collective security in the North Atlantic area, in Europe, and in the Pacific; and third, a section on European economic and political union. Texts bearing upon the conflict in Korea are not included in this volume.

It must be observed that a number of the instruments presented are not yet in force. They are nevertheless reproduced in this collection because of their great importance, and because any future modifications in them may be expected to take the form of separate documents. An account of the present status of each instrument will be found in a headnote.

This volume has been prepared with the collaboration of Judge Manley O. Hudson, Bemis Professor of International Law in the Harvard Law School and late Associate for International Law of the Naval War College.

THOMAS H. ROBBINS, JR.
Rear Admiral, United States Navy
President, Naval War College

NEWPORT, 29 April 1954.

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I. PEACE TREATIES 1951-1952

INTRODUCTORY NOTE. The current state of the World War II peace treaties is as follows. On 10 February 1947, five Treaties of Peace, between the Allied and Associated powers on the one hand and Italy, Bulgaria, Hungary, Roumania, and Finland, respectively, on the other, were signed at Paris. These Treaties came into force according to their terms with the deposit of ratifications on 15 September 1947. The texts (in the English version only) have been reproduced in *International Law Documents 1946-1947*.

The present volume supplies the texts for (a) certain modifications of the Treaty of Peace with Italy, (b) the Treaty of Peace with Japan, and (c) the Convention on Relations between the Three Powers and the Federal Republic of Germany [Bonn Convention], with related documents, which may be considered as replacing a Treaty of Peace with Germany for the time being, pending the unification of that country. This Convention was not in force on 1 April 1954.

No Treaty of Peace with Austria has yet been signed, and Austria continues to be occupied by military forces of the United States, the United Kingdom, France, and the Soviet Union, under terms of the Agreement on Zones of Occupation in Austria and the Administration of the City of Vienna, of 9 July 1945 (U. S. Treaties and Other International Acts Series 1600).

Documents relating to the conflict in Korea, such as the Armistice Agreement of 27 July 1953, are not covered by this volume. Texts may be found in 29 U. S. Department of State Bulletin (1953), pp. 131-141, in U. S. Department of State Publication 5150, "Armistice in Korea" (1953), in Congressional compilations: "Aid to Korea," House Report No. 962, 81st Congress, 1st session (1949), and "Background Information on Korea," House Document, 81st Congress, 2nd session (1950), both prepared by the House Committee on Foreign Affairs, and "The United States and the Korean Problem: Documents 1943-1953," Senate Document No. 74, 83rd Congress, 1st session (1953), prepared by the Senate Committee on Foreign Relations, and in U. S. Treaties and other International Acts Series 2782.

A. TREATY OF PEACE WITH ITALY—DEVELOPMENTS, 1951

The text of the Treaty of Peace between the Allied and Associated Powers and Italy, which was signed at Paris on 10 February 1947 and entered into force on 15 September 1947, appears in U. S. Treaties and Other International Acts Series 1648, U. S. Department of State Publication 2743, and in United Nations Treaty Series, volumes 49 and 50; the English version was reproduced in *International Law Documents 1946-1947*, p. 1.

In connection with Article 73 of the Treaty, which provided for the withdrawal from Italy of all armed forces of the Allied and Associated Powers, an agreement between the United States and Italy on the rights and privileges of United States Forces in Italy and the transfer of responsibility from the Allied Military Government to the Italian Government was effected by an exchange of notes signed at Rome on 3 September 1947 and entering into force the same day (U. S. Treaties and Other International Acts Series 1694).

The Free Territory of Trieste was established by Article 21 of the Treaty, with boundaries specified in Articles 4 and 22, and provisions for its administration were set out in Annexes VI-X of the Treaty. Until the coming into force of the Permanent Statute (Annex VI), Trieste was to be administered under an Instrument for the Provisional Regime of the Free Territory (Annex VII). A Governor, appointed by the Security Council of the United Nations, was to take office as soon as possible; until then, the Free Territory was to continue to be

administered by the Allied military commands within their respective zones. Up to 1 April 1954, no Governor had been named.

On 26 September 1951, the Governments of the United States, France, and the United Kingdom declared their readiness to consider a removal of certain permanent restrictions placed on Italy by the terms of the Treaty. These changes were accomplished by bilateral exchanges of notes on 8 and 21 December 1951. The clauses of the Treaty affected by these texts are: the general political clauses (Articles 15-18), declared superfluous by the new agreement, and all the naval, military, and air clauses except for two articles providing for the repatriation of Italian prisoners of war and for mine clearance (Articles 46-70, with the Annexes relevant thereto). The text of Articles 15-18 is as follows:

"ARTICLE 15. Italy shall take all measures necessary to secure to all persons under Italian jurisdiction, without distinction as to race, sex, language or religion, the enjoyment of human rights and of the fundamental freedoms, including freedom of expression, of press and publication, of religious worship, of political opinion and of public meeting.

"ARTICLE 16. Italy shall not prosecute or molest Italian nationals, including members of the armed forces, solely on the ground that during the period from June 10, 1940, to the coming into force of the present Treaty, they expressed sympathy with or took action in support of the cause of the Allied and Associated Powers.

"ARTICLE 17. Italy, which, in accordance with Article 30 of the Armistice Agreement, has taken measures to dissolve the Fascist organizations in Italy, shall not permit the resurgence on Italian territory of such organizations, whether political, military or semi-military, whose purpose it is to deprive the people of their democratic rights.

"ARTICLE 18. Italy undertakes to recognize the full force of the Treaties of Peace with Roumania, Bulgaria, Hungary, and Finland and other agreements or arrangements which have been or will be reached by the Allied and Associated Powers in respect of Austria, Germany and Japan for the restoration of peace."

1. Declaration by the United States, France, and the United Kingdom, on the Italian Peace Treaty, 26 September 1951

The text is from U. S. Treaties and Other International Acts Series 2461, p. 5.

The Governments of the United States, France, and the United Kingdom have considered for some time how best to resolve, in the interests of the harmonious development of cooperation between the free nations, the problem presented by the peace treaty with Italy.

In accordance with the desire of the Italian people, Italy, which loyally cooperated with the Allies during the latter part of the war as a cobelligerent, has reestablished democratic institutions. In the spirit of the United Nations' Charter, Italy has invariably extended to other peaceful and democratic governments that cooperation indispensable to the solidarity of the free world.

Nevertheless, although Italy has on three occasions received the support of the majority of member states voting in the General Assembly, it is still prevented by an unjustifiable veto from obtaining membership in the United Nations in spite of the provisions of the treaty and the Charter.

Moreover, Italy is still subject under the Peace Treaty to certain restrictions and disabilities. These restrictions no longer accord with the situation prevailing today nor with Italy's status as an active and equal member of the democratic and freedom-loving family of nations.

Each of the three governments, therefore, declares hereby its readiness to give favorable consideration to a request from the Italian Government to remove so far as concerns its individual relations with Italy, and without prejudice to the rights of third parties, those permanent restrictions and discriminations now in existence which are wholly overtaken by events or have no justification in present circumstances or affect Italy's capacity for self-defense.

Each of the three governments hereby reaffirms its determination to make every effort to secure Italy's membership in the United Nations.

The three governments trust that this declaration will meet with the wide approval of the other signatories of the peace treaty and that they will likewise be prepared to take similar action.

September 26, 1951

2. Release of Italy From Certain of Its Obligations to the United States Under the Treaty of Peace

This agreement was effected by an exchange of notes signed at Washington on 8 and 21 December 1951 and entering into force on the latter date. Similar notes were exchanged between Italy and the United Kingdom on the same dates (British Treaty Series No. 3 (1952), Cmd. 8450). By 6 January 1952, fourteen other States, including France, had accepted the Italian proposal of 8 December. For the position taken by the Soviet Union and the text of the Italian reply, which implied that the Italian Government considered itself no longer bound by its obligations to the Soviet Union under the Treaty, see Chronology of International Events and Documents, VIII, p. 108, and the New York Times, 10 February 1952, pp. 1 and 24.

The text is taken from U. S. Treaties and Other International Acts Series 2461, p. 1.

The Italian Ambassador to the Acting Secretary of State (Translation)

December 8, 1951

EXCELLENCY,

I have the honor to refer to declarations repeatedly made by the Italian Government and to the declaration of September 26 made by the Governments of France, the United Kingdom and the United States, as well as to statements made by officials of other governments regarding the anomaly created by the existence of the Italian Peace Treaty and the position which Italy occupies today.

Italy's status as an active and equal member of the democratic and freedom-loving family of nations has been universally recognized. The spirit of the Peace Treaty, therefore, no longer accords with the situation prevailing today.

It was contemplated by the Peace Treaty that Italy would be admitted to membership in the United Nations. The basic assumption was that universal adherence to the principles of the United Nations Charter would assure the security of all the democratic family of nations and therefore would also assure Italy's status as an equal member of that family.

The above assumption on the basis of which the Italian Peace Treaty was signed and was ratified, has not been fulfilled. Even though the preamble of the Treaty contemplated that Italy would become a full member of the United Nations, Italy's admission, though receiving on three occasions the support of the majority of member states voting in the General Assembly, has been pre-

vented by unjustified vetoes in the Security Council on the four occasions when it was considered.

Since Italy is not a member of the United Nations, she can neither contribute fully to the peaceful development of international relations on a basis of equality with other nations, nor make her influence felt within the United Nations, with a view to obtaining the revision of the clauses of the Treaty as provided by the Treaty itself.

Meanwhile, Italy has reestablished democratic institutions, participates in concert with other nations in a number of international organizations working to establish peaceful and improved conditions of life for the peoples of the world, administers a trust territory in the name and on behalf of the United Nations, and supports the efforts of the United Nations to maintain international peace and security.

In these circumstances, as it has been already stated, the spirit and certain restrictive provisions of the Peace Treaty no longer appear to be appropriate.

Upon instructions of my Government I have, therefore, the honor to propose that the Government of the United States and other signatories of the Treaty, to whom similar notes have been addressed, should agree that the spirit reflected by the preamble no longer exists, and has been replaced by the spirit of the United Nations Charter; that the political clauses, Articles 15-18, are superfluous and that the military clauses, Articles 46-70 and the relevant annexes, which restrict Italy's right and capacity to provide for her own defense, are not consistent with Italy's position as an equal member of the democratic and freedom-loving family of nations.

Accept, Excellency, the expression of my highest consideration.

TARCHIANI

The Secretary of State to the Italian Ambassador

December 21, 1951

EXCELLENCY,

I have the honor to refer to your note of December 8, 1951, regarding the Preamble and certain clauses of the Italian Peace Treaty.

I am glad to inform you that, in accordance with the terms of the declaration of September 26th by the Governments of the United States, France and the United Kingdom, the Government of the United States welcomes the proposals of the Italian Government.

Therefore the United States hereby agrees that the spirit reflected by the Preamble no longer exist, and has been replaced by the spirit of the United Nations Charter; that the political clauses, Articles 15-18, are superfluous; and that since the military clauses are not consistent with Italy's position as an equal member of the democratic and freedom-loving family of nations, Italy is released from its obligations to the United States under Articles 46-70 and Annexes relevant thereto.

Accept, Excellency, the renewed assurances of my highest consideration.

DEAN ACHESON

B. THE JAPANESE PEACE TREATY AND RELATED AGREEMENTS

1. Treaty of Peace With Japan, 8 September 1951

The diplomatic discussions which resulted in the present treaty were initiated by the United States in the Far Eastern Commission in the fall of 1950, primary responsibility being assigned to Mr. John Foster Dulles. After extended negotiations (for references, see 25 Department of State Bulletin (1951), p. 348, footnote 2), a draft treaty sponsored by the United States and the United Kingdom, with the French Government in accord, was circulated for comment on 9 July 1951 and revised on 20 July; a final draft was circulated on 13 August 1951 (25 Department of State Bulletin (1951), pp. 132-138, 346-357).

On 8 September 1951, at a conference held in San Francisco, the treaty was signed by representatives of the following forty-nine states: Argentina, Australia, Belgium, Bolivia, Brazil, Cambodia, Canada, Ceylon, Chile, Colombia, Costa Rica, Cuba, the Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, France, Greece, Guatemala, Haiti, Honduras, Indonesia, Iran, Iraq, Laos, Lebanon, Liberia, Luxembourg, Mexico, The Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Panama, Paraguay, Peru, the Philippines, Saudi Arabia, Syria, Turkey, the Union of South Africa, the United Kingdom, the United States of America, Uruguay, Venezuela, Viet Nam, and Japan. Czechoslovakia, Poland, and the Soviet Union were represented at the conference but did not sign the treaty. Burma, India, and Yugoslavia were invited to the conference, but did not send delegates. China and Italy were not invited to the conference. Article 26 of the treaty authorizes Japan to sign a separate peace treaty with States not signatories of the present treaty, under certain conditions.

Ratifications were deposited by Japan (28 November 1951), the United Kingdom (3 January 1952), Mexico (3 March 1952), Argentina (9 April 1952), Australia (10 April 1952), New Zealand (10 April 1952), Canada (17 April 1952), Pakistan (17 April 1952), France (18 April 1952) and the United States (28 April 1952). The Treaty therefore came into force according to the provisions of Article 23 on 28 April 1952.

Ratifications have subsequently been deposited by El Salvador (6 May 1952), Brazil (20 May), Cambodia (2 June), the Dominican Republic (6 June), Ethiopia (12 June), the Netherlands (17 June), Peru (17 June), Viet Nam (18 June), Norway (19 June), Laos (20 June), Venezuela (20 June), Turkey (24 July), Cuba (12 August), Belgium (22 August), the Union of South Africa (10 September), Costa Rica (17 September), Nicaragua (4 November), Uruguay (2 December), Liberia (29 December), Syria (29 December), Egypt (30 December), Paraguay (15 January 1953), Panama (16 April), Haiti (1 May), Greece (19 May), and Honduras (4 September).

The ratification by the President of the United States was subject to a declaration included in the advice and consent of the Senate of the United States, as follows:

"As part of such advice and consent the Senate states that nothing the treaty contains it deemed to diminish or prejudice, in favor of the Soviet Union, the right, title, and interest of Japan, or the Allied Powers as defined in said treaty, in and to South Sakhalin and its adjacent islands, the Kurile Islands, the Habomai Islands, the island of Shikotan, or any other territory, rights or interests possessed by Japan on December 7, 1941, or to confer any right, title, or benefit therein or thereto on the Soviet Union; and also that nothing in the said treaty, or the advice and consent of the Senate to the ratification thereof, implies recognition on the part of the United States of the provisions in favor of the Soviet Union contained in the so-called 'Yalta agreement' regarding Japan of February 11, 1945."

The treaty was accompanied by two declarations on the part of the Government of Japan and by an exchange of notes between Japan and the United States. The text is from U. S. Treaties and Other International Acts Series 2490.

The Security Treaty signed between the United States and Japan on the same date, and the related treaties with Australia, New Zealand, and the Philippines, are reproduced later in this volume.

TREATY OF PEACE WITH JAPAN

Whereas the Allied Powers and Japan are resolved that henceforth their relations shall be those of nations which, as sovereign equals, cooperate in friendly association to promote their common welfare and to maintain international peace and security, and are therefore desirous of concluding a Treaty of Peace which will settle questions still outstanding as a result of the existence of a state of war between them;

Whereas Japan for its part declares its intention to apply for membership in the United Nations and in all circumstances to conform to the principles of the Charter of the United Nations; to strive to realize the objectives of the Universal Declaration of Human Rights; to seek to create within Japan conditions of stability and well-being as defined in Articles 55 and 56 of the Charter of the United Nations and already initiated by post-surrender Japanese legislation; and in public and private trade and commerce to conform to internationally accepted fair practices;

Whereas the Allied Powers welcome the intentions of Japan set out in the foregoing paragraph;

The Allied Powers and Japan have therefore determined to conclude the present Treaty of Peace, and have accordingly appointed the undersigned Plenipotentiaries, who, after presentation of their full powers, found in good and due form, have agreed on the following provisions:

CHAPTER I—PEACE

ARTICLE 1. (a) The state of war between Japan and each of the Allied Powers is terminated as from the date on which the present Treaty comes into force between Japan and the Allied Power concerned as provided for in Article 23.

(b) The Allied Powers recognize the full sovereignty of the Japanese people over Japan and its territorial waters.

CHAPTER II—TERRITORY

ARTICLE 2. (a) Japan, recognizing the independence of Korea, renounces all right, title and claim to Korea, including the islands of Quelpart, Port Hamilton and Dagelet.

(b) Japan renounces all right, title and claim to Formosa and the Pescadores.

(c) Japan renounces all right, title and claim to the Kurile Islands, and to that portion of Sakhalin and the islands adjacent to it over which Japan acquired sovereignty as a consequence of the Treaty of Portsmouth of September 5, 1905.

(d) Japan renounces all right, title and claim in connection with the League of Nations Mandate System, and accepts the action of the United Nations Security Council of April 2, 1947, extending the trusteeship system to the Pacific Islands formerly under mandate to Japan. [U. S. Treaties and Other International Acts Series 1665.]

(*e*) Japan renounces all claim to any right or title to or interest in connection with any part of the Antarctic area, whether deriving from the activities of Japanese nationals or otherwise.

(*f*) Japan renounces all right, title and claim to the Spratly Islands and to the Paracel Islands.

ARTICLE 3. Japan will concur in any proposal of the United States to the United Nations to place under its trusteeship system, with the United States as the sole administering authority, Nansei Shoto south of 29° north latitude (including the Ryukyu Islands and the Daito Islands), Nanpo Shoto south of Sofu Gan (including the Bonin Islands, Rosario Island and the Volcano Islands) and Parece Vela and Marcus Island. Pending the making of such a proposal and affirmative action thereon, the United States will have the right to exercise all and any powers of administration, legislation and jurisdiction over the territory and inhabitants of these islands, including their territorial waters.

ARTICLE 4. (*a*) Subject to the provisions of paragraph (*b*) of this Article, the disposition of property of Japan and of its nationals in the areas referred to in Article 2, and their claims, including debts, against the authorities presently administering such areas and the residents (including juridical persons), thereof, and the disposition in Japan of property of such authorities and residents, and of claims, including debts, of such authorities and residents against Japan and its nationals, shall be the subject of special arrangements between Japan and such authorities. The property of any of the Allied Powers or its nationals in the areas referred to in Article 2 shall, insofar as this has not already been done, be returned by the administering authority in the condition in which it now exists. (The term nationals whenever used in the present Treaty includes juridical persons.)

(*b*) Japan recognizes the validity of dispositions of property of Japan and Japanese nationals made by or pursuant to directives of the United States Military Government in any of the areas referred to in Articles 2 and 3.

(*c*) Japanese owned submarine cables connecting Japan with territory removed from Japanese control pursuant to the present Treaty shall be equally divided, Japan retaining the Japanese terminal and adjoining half of the cable, and the detached territory the remainder of the cable and connecting terminal facilities.

CHAPTER III—SECURITY

ARTICLE 5. (*a*) Japan accepts the obligations set forth in Article 2 of the Charter of the United Nations, and in particular the obligations

(i) to settle its international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered;

(ii) to refrain in its international relations from the threat or use of force against the territorial integrity or political independence of any State or in any other manner inconsistent with the Purposes of the United Nations;

(iii) to give the United Nations every assistance in any action it takes in accordance with the Charter and to refrain from giving assistance to any State against which the United Nations may take preventive or enforcement action.

(b) The Allied Powers confirm that they will be guided by the principles of Article 2 of the Charter of the United Nations in their relations with Japan.

(c) The Allied Powers for their part recognize that Japan as a sovereign nation possesses the inherent right of individual or collective self-defense referred to in Article 51 of the Charter of the United Nations and that Japan may voluntarily enter into collective security arrangements.

ARTICLE 6. (a) All occupation forces of the Allied Powers shall be withdrawn from Japan as soon as possible after the coming into force of the present Treaty, and in any case not later than 90 days thereafter. Nothing in this provision shall, however, prevent the stationing or retention of foreign armed forces in Japanese territory under or in consequence of any bilateral or multilateral agreements which have been or may be made between one or more of the Allied Powers, on the one hand, and Japan on the other.

(b) The provisions of Article 9 of the Potsdam Proclamation of July 26, 1945 [U. S. Senate Document No. 123, 81st Congress, 1st session, p. 49] dealing with the return of Japanese military forces to their homes, to the extent not already completed, will be carried out.

(c) All Japanese property for which compensation has not already been paid, which was supplied for the use of the occupation forces and which remains in the possession of those forces at the time of the coming into force of the present Treaty, shall be returned to the Japanese Government within the same 90 days unless other arrangements are made by mutual agreement.

CHAPTER IV—POLITICAL AND ECONOMIC CLAUSES

ARTICLE 7. (a) Each of the Allied Powers, within one year after the present Treaty has come into force between it and Japan, will notify Japan which of its prewar bilateral treaties or conventions with Japan it wishes to continue in force or revive, and any treaties or conventions so notified shall continue in force or be revived subject only to such amendments as may be necessary to ensure conformity with the present Treaty. The treaties and conventions so notified shall be considered as having been continued in force or revived three months after the date of notification and shall be registered with the Secretariat of the United Nations. All such treaties and conventions as to which Japan is not so notified shall be regarded as abrogated.

(b) Any notification made under paragraph (a) of this article may except from the operation or revival of a treaty or convention any territory for the international relations of which the notifying Power is responsible, until three months after the date on which notice is given to Japan that such exception shall cease to apply.

ARTICLE 8. (a) Japan will recognize the full force of all treaties now or hereafter concluded by the Allied Powers for terminating the state of war initiated on September 1, 1939, as well as any other arrangements by the Allied Powers for or in connection with the restoration of peace. Japan also accepts the arrangements made for terminating the former League of Nations and Permanent Court of International Justice.

(b) Japan renounces all such rights and interests as it may derive from being a signatory power of the Conventions of St. Germain-en-Laye of September 10, 1919, and the Straits Agreement of Montreux of July 20, 1936, and from Article 16 of the Treaty of Peace with Turkey signed at Lausanne on July 24, 1923.

(c) Japan renounces all rights, title and interests acquired under, and is discharged from all obligations resulting from, the Agreement between Germany and the Creditor Powers of January 20, 1930, and its Annexes, including the Trust Agreement, dated May 17, 1930; the Convention of January 20, 1930, respecting the Bank for International Settlements; and the Statutes of the Bank for International Settlements. Japan will notify to the Ministry of Foreign Affairs in Paris within six months of the first coming into force of the present Treaty its renunciation of the rights, title and interests referred to in this paragraph.

ARTICLE 9. Japan will enter promptly into negotiations with the Allied Powers so desiring for the conclusion of bilateral and multilateral agreements providing for the regulation or limitation of fishing and the conservation and development of fisheries on the high seas.

ARTICLE 10. Japan renounces all special rights and interests in China, including all benefits and privileges resulting from the provisions of the final Protocol signed at Peking on September 7, 1901, and all annexes, notes and documents supplementary thereto, and agrees to the abrogation in respect to Japan of the said protocol, annexes, notes and documents.

ARTICLE 11. Japan accepts the judgments of the International Military Tribunal for the Far East and of other Allied War Crimes Courts both within and outside Japan, and will carry out the sentences imposed thereby upon Japanese nationals imprisoned in Japan. The power to grant clemency, to reduce sentences and to parole with respect to such prisoners may not be exercised except on the decision of the Government or Governments which imposed the sentence in each instance, and on the recommendation of Japan. In the case of persons sentenced by the International Military Tribunal for the Far East, such power may not be exercised except on the decision of a majority of the Governments represented on the Tribunal, and on the recommendation of Japan.

ARTICLE 12. (a) Japan declares its readiness promptly to enter into negotiations for the conclusion with each of the Allied Powers of treaties or agreements to place their trading, maritime and other commercial relations on a stable and friendly basis.

(b) Pending the conclusion of the relevant treaty or agreement, Japan will, during a period of four years from the first coming into force of the present Treaty

(1) accord to each of the Allied Powers, its nationals, products and vessels,

(i) most-favored-nation treatment with respect to customs duties, charges, restrictions and other regulations on or in connection with the importation and exportation of goods;

(ii) national treatment with respect to shipping, navigation and imported goods, and with respect to natural and juridical persons and their interests—

such treatment to include all matters pertaining to the levying and collection of taxes, access to the courts, the making and performance of contracts, rights to property (tangible and intangible), participation in juridical entities constituted under Japanese law, and generally the conduct of all kinds of business and professional activities;

(2) ensure that external purchases and sales of Japanese state trading enterprises shall be based solely on commercial considerations.

(c) In respect to any matter, however, Japan shall be obliged to accord to an Allied Power national treatment, or most-favored-nation treatment, only to the extent that the Allied Power concerned accords Japan national treatment or most-favored-nation treatment, as the case may be, in respect of the same matter. The reciprocity envisaged in the foregoing sentence shall be determined, in the case of products, vessels and juridical entities of, and persons domiciled in, any non-metropolitan territory of an Allied Power, and in the case of juridical entities of, and persons domiciled in, any state or province of an Allied Power having a federal government, by reference to the treatment accorded to Japan in such territory, state or province.

(d) In the application of this Article, a discriminatory measure shall not be considered to derogate from the grant of national or most-favored-nation treatment, as the case may be, if such measure is based on an exception customarily provided for in the commercial treaties of the party applying it, or on the need to safeguard that party's external financial position or balance of payments (except in respect to shipping and navigation), or on the need to maintain its essential security interests, and provided such measure is proportionate to the circumstances and not applied in an arbitrary or unreasonable manner.

(e) Japan's obligations under this Article shall not be affected by the exercise of any Allied rights under Article 14 of the present Treaty; nor shall the provisions of this Article be understood as limiting the undertakings assumed by Japan by virtue of Article 15 of the Treaty.

ARTICLE 13. (a) Japan will enter into negotiations with any of the Allied Powers, promptly upon the request of such Power or Powers, for the conclusion of bilateral or multilateral agreements relating to international civil air transport.

(b) Pending the conclusion of such agreement or agreements, Japan will, during a period of four years from the first coming into force of the present Treaty, extend to such Power treatment not less favorable with respect to air-traffic rights and privileges than those exercised by any such Powers at the date of such coming into force, and will accord complete equality of opportunity in respect to the operation and development of air services.

(c) Pending its becoming a party to the Convention on International Civil Aviation in accordance with Article 93 thereof, Japan will give effect to the provisions of that Convention applicable to the international navigation of aircraft, and will give effect to the standards, practices and procedures adopted as annexes to the Convention in accordance with the terms of the Convention.

CHAPTER V—CLAIMS AND PROPERTY

ARTICLE 14. (*a*) It is recognized that Japan should pay reparations to the Allied Powers for the damage and suffering caused by it during the war. Nevertheless it is also recognized that the resources of Japan are not presently sufficient, if it is to maintain a viable economy, to make complete reparation for all such damage and suffering and at the same time meet its other obligations.

Therefore,

1. Japan will promptly enter into negotiations with Allied Powers so desiring, whose present territories were occupied by Japanese forces and damaged by Japan, with a view to assisting to compensate those countries for the cost of repairing the damage done, by making available the services of the Japanese people in production, salvaging and other work for the Allied Powers in question. Such arrangements shall avoid the imposition of additional liabilities on other Allied Powers, and, where the manufacturing of raw materials is called for, they shall be supplied by the Allied Powers in question, so as not to throw any foreign exchange burden upon Japan.

2. (I) Subject to the provisions of sub-paragraph (II) below, each of the Allied Powers shall have the right to seize, retain, liquidate or otherwise dispose of all property, rights and interests of

(*a*) Japan and Japanese nationals,

(*b*) persons acting for or on behalf of Japan or Japanese nationals, and

(*c*) entities owned or controlled by Japan or Japanese nationals,

which on the first coming into force of the present Treaty were subject to its jurisdiction. The property, rights and interests specified in this sub-paragraph shall include those now blocked, vested or in the possession or under the control of enemy property authorities of Allied Powers, which belonged to, or were held or managed on behalf of, any of the persons or entities mentioned in (*a*), (*b*) or (*c*) above at the time such assets came under the controls of such authorities.

(II) The following shall be excepted from the right specified in sub-paragraph (I) above:

(i) property of Japanese natural persons who during the war resided with the permission of the Government concerned in the territory of one of the Allied Powers, other than territory occupied by Japan, except property subjected to restrictions during the war and not released from such restrictions as of the date of the first coming into force of the present Treaty;

(ii) all real property, furniture and fixtures owned by the Government of Japan and used for diplomatic or consular purposes, and all personal furniture and furnishings and other private property not of an investment nature which was normally necessary for the carrying out of diplomatic and consular functions, owned by Japanese diplomatic and consular personnel;

(iii) property belonging to religious bodies or private charitable institutions and used exclusively for religious or charitable purposes;

(iv) property, rights and interests which have come within its jurisdiction in consequence of the resumption of trade and financial relations subsequent

to September 2, 1945, between the country concerned and Japan, except such as have resulted from transactions contrary to the laws of the Allied Power concerned;

(v) obligations of Japan or Japanese nationals, any right, title or interest in tangible property located in Japan, interests in enterprises organized under the laws of Japan, or any paper evidence thereof; provided that this exception shall only apply to obligations of Japan and its nationals expressed in Japanese currency.

(III) Property referred to in exceptions (i) through (v) above shall be returned subject to reasonable expenses for its preservation and administration. If any such property has been liquidated the proceeds shall be returned instead.

(IV) The right to seize, retain, liquidate or otherwise dispose of property as provided in sub-paragraph (I) above shall be exercised in accordance with the laws of the Allied Power concerned, and the owner shall have only such rights as may be given him by those laws.

(V) The Allied Powers agree to deal with Japanese trademarks and literary and artistic property rights on a basis as favorable to Japan as circumstances ruling in each country will permit.

(b) Except as otherwise provided in the present Treaty, the Allied Powers waive all reparations claims of the Allied Powers, other claims of the Allied Powers and their nationals arising out of any actions taken by Japan and its nationals in the course of the prosecution of the war, and claims of the Allied Powers for direct military costs of occupation.

ARTICLE 15. (a) Upon application made within nine months of the coming into force of the present Treaty between Japan and the Allied Power concerned, Japan will, within six months of the date of such application, return the property, tangible and intangible, and all rights or interests of any kind in Japan of each Allied Power and its nationals which was within Japan at any time between December 7, 1941, and September 2, 1945, unless the owner has freely disposed thereof without duress or fraud. Such property shall be returned free of all encumbrances and charges to which it may have become subject because of the war, and without any charges for its return. Property whose return is not applied for by or on behalf of the owner or by his Government within the prescribed period may be disposed of by the Japanese Government as it may determine. In cases where such property was within Japan on December 7, 1941, and cannot be returned or has suffered injury or damage as a result of the war, compensation will be made on terms not less favorable than the terms provided in the draft Allied Powers Property Compensation Law approved by the Japanese Cabinet on July 13, 1951.

(b) With respect to industrial property rights impaired during the war, Japan will continue to accord to the Allied Powers and their nationals benefits no less than those heretofore accorded by Cabinet Orders No. 309 effective September 1, 1949, No. 12 effective January 28, 1950, and No. 9 effective February 1, 1950, all as now amended, provided such nationals have applied for such benefits within the time limits prescribed therein.

(c) (i) Japan acknowledges that the literary and artistic property rights which existed in Japan on December 6, 1941, in respect to the published and unpublished works of the Allied Powers and their nationals have continued in force since that date, and recognizes those rights which have arisen, or but for the war would have arisen, in Japan since that date, by the operation of any conventions and agreements to which Japan was a party on that date, irrespective of whether or not such conventions or agreements were abrogated or suspended upon or since the outbreak of war by the domestic law of Japan or the Allied Power concerned.

(ii) Without the need for application by the proprietor of the right and without the payment of any fee or compliance with any other formality, the period from December 7, 1941, until the coming into force of the present Treaty between Japan and the Allied Power concerned shall be excluded from the running of the normal term of such rights; and such period, with an additional period of six months, shall be excluded from the time within which a literary work must be translated into Japanese in order to obtain translating rights in Japan.

ARTICLE 16. As an expression of its desire to indemnify those members of the armed forces of the Allied Powers who suffered undue hardships while prisoners of war of Japan, Japan will transfer its assets and those of its nationals in countries which were neutral during the war, or which were at war with any of the Allied Powers, or, at its option, the equivalent of such assets, to the International Committee of the Red Cross which shall liquidate such assets and distribute the resultant fund to appropriate national agencies, for the benefit of former prisoners of war and their families on such basis as it may determine to be equitable. The categories of assets described in Article 14 (a) 2 (II) (ii) through (v) of the present Treaty shall be excepted from transfer, as well as assets of Japanese natural persons not residents of Japan on the first coming into force of the Treaty. It is equally understood that the transfer provision of this Article has no application to the 19,770 shares in the Bank for International Settlements presently owned by Japanese financial institutions.

ARTICLE 17. (a) Upon the request of any of the Allied Powers, the Japanese Government shall review and revise in conformity with international law any decision or order of the Japanese Prize Courts in cases involving ownership rights of nationals of that Allied Power and shall supply copies of all documents comprising the records of these cases, including the decisions taken and orders issued. In any case in which such review or revision shows that restoration is due, the provisions of Article 15 shall apply to the property concerned.

(b) The Japanese Government shall take the necessary measures to enable nationals of any of the Allied Powers at any time within one year from the coming into force of the present Treaty between Japan and the Allied Power concerned to submit to the appropriate Japanese authorities for review any judgment given by a Japanese court between December 7, 1941, and such coming into force, in any proceedings in which any such national was unable to make adequate presentation of his case either as plaintiff or defendant. The Japanese Government shall provide that, where the national has suffered in-

jury by reason of any such judgment, he shall be restored in the position in which he was before the judgment was given or shall be afforded such relief as may be just and equitable in the circumstances.

ARTICLE 18. (a) It is recognized that the intervention of the state of war has not affected the obligation to pay pecuniary debts arising out of obligations and contracts (including those in respect of bonds) which existed and rights which were acquired before the existence of a state of war, and which are due by the Government or nationals of Japan to the Government or nationals of one of the Allied Powers, or are due by the Government or nationals of one of the Allied Powers to the Government or nationals of Japan. The intervention of a state of war shall equally not be regarded as affecting the obligation to consider on their merits claims for loss or damage to property or for personal injury or death which arose before the existence of a state of war, and which may be presented or re-presented by the Government of one of the Allied Powers to the Government of Japan, or by the Government of Japan to any of the Governments of the Allied Powers. The provisions of this paragraph are without prejudice to the rights conferred by Article 14.

(b) Japan affirms its liability for the prewar external debt of the Japanese State and for debts of corporate bodies subsequently declared to be liabilities of the Japanese State, and expresses its intention to enter into negotiations at an early date with its creditors with respect to the resumption of payments on those debts; to encourage negotiations in respect to other prewar claims and obligations; and to facilitate the transfer of sums accordingly.

ARTICLE 19. (a) Japan waives all claims of Japan and its nationals against the Allied Powers and their nationals arising out of the war or out of actions taken because of the existence of a state of war, and waives all claims arising from the presence, operations or actions of forces or authorities of any of the Allied Powers in Japanese territory prior to the coming into force of the present Treaty.

(b) The foregoing waiver includes any claims arising out of actions taken by any of the Allied Powers with respect to Japanese ships between September 1, 1939, and the coming into force of the present Treaty, as well as any claims and debts arising in respect to Japanese prisoners of war and civilian internees in the hands of the Allied Powers, but does not include Japanese claims specifically recognized in the laws of any Allied Power enacted since September 2, 1945.

(c) Subject to reciprocal renunciation, the Japanese Government also renounces all claims (including debts) against Germany and German nationals on behalf of the Japanese Government and Japanese nationals, including inter-governmental claims and claims for loss or damage sustained during the war, but excepting (a) claims in respect of contracts entered into and rights acquired before September 1, 1939, and (b) claims arising out of trade and financial relations between Japan and Germany after September 2, 1945. Such renunciation shall not prejudice actions taken in accordance with Articles 16 and 20 of the present Treaty.

(*d*) Japan recognizes the validity of all acts and omissions done during the period of occupation under or in consequence of directives of the occupation authorities or authorized by Japanese law at that time, and will take no action subjecting Allied nationals to civil or criminal liability arising out of such acts or omissions.

ARTICLE 20. Japan will take all necessary measures to ensure such disposition of German assets in Japan as has been or may be determined by those powers entitled under the Protocol of the proceedings of the Berlin Conference of 1945 [U. S. Senate Document No. 123, 81st Congress, 1st session, p. 34] to dispose of those assets, and pending the final disposition of such assets will be responsible for the conservation and administration thereof.

ARTICLE 21. Notwithstanding the provisions of Article 25 of the present Treaty, China shall be entitled to the benefits of Articles 10 and 14 (a) 2; and Korea to the benefits of Articles 2, 4, 9 and 12 of the present Treaty.

CHAPTER VI—SETTLEMENT OF DISPUTES

ARTICLE 22. If in the opinion of any Party to the present Treaty there has arisen a dispute concerning the interpretation or execution of the Treaty, which is not settled by reference to a special claims tribunal or by other agreed means, the dispute shall, at the request of any party thereto, be referred for decision to the International Court of Justice. Japan and those Allied Powers which are not already parties to the Statute of the International Court of Justice will deposit with the Registrar of the Court, at the time of their respective ratifications of the present Treaty, and in conformity with the resolution of the United Nations Security Council, dated October 15, 1946, a general declaration accepting the jurisdiction, without special agreement, of the Court generally in respect to all disputes of the character referred to in this Article.

CHAPTER VII—FINAL CLAUSES

ARTICLE 23. (*a*) The present Treaty shall be ratified by the States which sign it, including Japan, and will come into force for all the States which have then ratified it, when instruments of ratification have been deposited by Japan and by a majority, including the United States of America as the principal occupying Power, of the following States, namely Australia, Canada, Ceylon, France, Indonesia, the Kingdom of the Netherlands, New Zealand, Pakistan, the Republic of the Philippines, the United Kingdom of Great Britain and Northern Ireland, and the United States of America. The present Treaty shall come into force for each State which subsequently ratifies it, on the date of the deposit of its instrument of ratification.

(*b*) If the Treaty has not come into force within nine months after the date of the deposit of Japan's ratification, any State which has ratified it may bring the Treaty into force between itself and Japan by a notification to that effect given to the Governments of Japan and the United States of America not later than three years after the date of deposit of Japan's ratification.

ARTICLE 24. All instruments of ratification shall be deposited with the Government of the United States of America which will notify all the signatory States of each such deposit, of the date of the coming into force of the Treaty under paragraph (a) of Article 23, and of any notifications made under paragraph (b) of Article 23.

ARTICLE 25. For the purposes of the present Treaty the Allied Powers shall be the States at war with Japan, or any State which previously formed a part of the territory of a State named in Article 23, provided that in each case the State concerned has signed and ratified the Treaty. Subject to the provisions of Article 21, the present Treaty shall not confer any rights, titles or benefits on any State which is not an Allied Power as herein defined; nor shall any right, title or interest of Japan be deemed to be diminished or prejudiced by any provision of the Treaty in favor of a State which is not an Allied Power as so defined.

ARTICLE 26. Japan will be prepared to conclude with any State which signed or adhered to the United Nations Declaration of January 1, 1942, and which is at war with Japan, or with any State which previously formed a part of the territory of a State named in Article 23, which is not a signatory of the present Treaty, a bilateral Treaty of Peace on the same or substantially the same terms as are provided for in the present Treaty, but this obligation on the part of Japan will expire three years after the first coming into force of the present Treaty. Should Japan make a peace settlement or war claims settlement with any State granting that State greater advantages than those provided by the present Treaty, those same advantages shall be extended to the parties to the present Treaty.

ARTICLE 27. The present Treaty shall be deposited in the archives of the Government of the United States of America which shall furnish each signatory State with a certified copy thereof.

IN FAITH WHEREOF the undersigned Plenipotentiaries have signed the present Treaty.

DONE at the city of San Francisco this eighth day of September 1951, in the English, French, and Spanish languages, all being equally authentic, and in the Japanese language.

DECLARATION

With respect to the Treaty of Peace signed this day, the Government of Japan makes the following Declaration:

Japan will recognize any Commission, Delegation or other Organization authorized by any of the Allied Powers to identify, list, maintain or regulate its war graves, cemeteries and memorials in Japanese territory; will facilitate the work of such Organizations; and will, in respect of the above-mentioned war graves, cemeteries and memorials, enter into negotiations for the conclusion of such agreements as may prove necessary with the Allied Power concerned, or with any Commission, Delegation or other Organization authorized by it.

Japan trusts that the Allied Powers will enter into discussions with the Japanese Government with a view to arrangements being made for the maintenance

of any Japanese war graves or cemeteries which may exist in the territories of the Allied Powers and which it is desired to preserve.

Signed at San Francisco, September 8, 1951.

DECLARATION

With respect to the Treaty of Peace signed this day, the Government of Japan makes the following Declaration:

1. Except as otherwise provided in the said Treaty of Peace, Japan recognizes the full force of all presently effective multilateral international instruments to which Japan was a party on September 1, 1939, and declares that it will, on the first coming into force of the said Treaty, resume all its rights and obligations under those instruments. Where, however, participation in any instrument involves membership in an international organization of which Japan ceased to be a member on or after September 1, 1939, the provisions of the present paragraph shall be dependent on Japan's readmission to membership in the organization concerned.

2. It is the intention of the Japanese Government formally to accede to the following international instruments within the shortest practicable time, not to exceed one year from the first coming into force of the Treaty of Peace:

(1) Protocol opened for signature at Lake Success on December 11, 1946, amending the agreements, conventions and protocols on narcotic drugs of January 23, 1912, February 11, 1925, February 19, 1925, July 13, 1931, November 27, 1931, and June 26, 1936;

(2) Protocol opened for signature at Paris on November 19, 1948, bringing under international controls drugs outside the scope of the convention of July 13, 1931, for limiting the manufacture and regulating the distribution of narcotic drugs, as amended by the protocol signed at Lake Success on December 11, 1946;

(3) International Convention on the Execution of Foreign Arbitral Awards signed at Geneva on September 26, 1927;

(4) International Convention relating to Economic Statistics with protocol signed at Geneva on December 14, 1928, and Protocol amending the International Convention of 1928 relating to Economic Statistics signed at Paris on December 9, 1948;

(5) International Convention relating to the Simplification of Customs Formalities, with protocol of signature, signed at Geneva on November 3, 1923;

(6) Agreement of Madrid of April 14, 1891, for the Prevention of False Indications of Origin of Goods, as revised at Washington on June 2, 1911, at The Hague on November 6, 1925, and at London on June 2, 1934;

(7) Convention for the Unification of Certain Rules relating to International Transportation by Air, and additional protocol, signed at Warsaw on October 12, 1929;

(8) Convention on Safety of Life at Sea opened for signature at London on June 10, 1948;

(9) Geneva conventions of August 12, 1949, for the protection of war victims.

3. It is equally the intention of the Japanese Government, within six months of the first coming into force of the Treaty of Peace, to apply for Japan's admission to participation in (a) the Convention on International Civil Aviation opened for signature at Chicago on December 7, 1944, and, as soon as Japan is itself a party to that Convention, to accept the International Air Services Transit Agreement also opened for signature at Chicago on December 7, 1944; and (b) the Convention of the World Meteorological Organization opened for signature at Washington on October 11, 1947.

Signed at San Francisco, September 8, 1951.

EXCHANGE OF NOTES BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE JAPANESE GOVERNMENT

The Secretary of State to the Prime Minister of Japan

September 8, 1951

EXCELLENCY: Upon the coming into force of the treaty of peace signed today, Japan will assume obligations expressed in article 2 of the Charter of the United Nations which requires the giving to the United Nations "every assistance in any action it takes in accordance with the present Charter."

As we know, armed aggression has occurred in Korea, against which the United Nations and its members are taking action. There has been established a unified command of the United Nations under the United States pursuant to Security Council resolution of July 7, 1950; and the General Assembly, by resolution of February 1, 1951, has called upon all states and authorities to lend every assistance to the United Nations action and to refrain from giving any assistance to the aggressor. With the approval of SCAP, Japan has been and now is rendering important assistance to the United Nations action in the form of facilities and services made available to the members of the United Nations, the armed forces of which are participating in the United Nations action.

Since the future is unsettled and it may unhappily be that the occasion for facilities and services in Japan in support of United Nations action will continue or recur, I would appreciate confirmation, on behalf of your Government, that if and when the forces of a member or members of the United Nations are engaged in any United Nations action in the Far East after the treaty of peace comes into force, Japan will permit and facilitate the support in and about Japan, by the member or members, of the forces engaged in such United Nations action; the expenses involved in the use of Japanese facilities and services to be borne as at present or as otherwise mutually agreed between Japan and the United Nations member concerned. Insofar as the United States is concerned the use of facilities and services, over and above those provided to the United States pursuant to the administrative agreement which will implement the

security treaty between the United States and Japan, would be at United States expense, as a present.

Accept, Excellency, the assurances of my most distinguished consideration.

DEAN ACHESON

The Prime Minister of Japan to the Secretary of State

September 8, 1951

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's note of today's date in which Your Excellency has informed me as follows: [Text of preceding note repeated.]

With full cognizance of the contents of Your Excellency's note, I have the honor, on behalf of my Government, to confirm that if and when the forces of a member or members of the United Nations are engaged in any United Nations action in the Far East after the treaty of peace comes into force, Japan will permit and facilitate the support in and about Japan, by the member or members of the forces engaged in such United Nations action, the expenses involved in the use of Japanese facilities and services to be borne as at present or as otherwise mutually agreed between Japan and the United Nations member concerned. Insofar as the United States is concerned the use of facilities and services, over and above those provided to the United States pursuant to the administrative agreement which will implement the security agreement between Japan and the United States would be at United States expense, as at present.

Accept, Excellency, the assurance of my most distinguished consideration.

SHIGERU YOSHIDA

2. Agreement for the Settlement of Disputes Arising Under Article 15 (a) of the Treaty of Peace With Japan, Washington, 12 June 1952

Article 22 of the Treaty of Peace with Japan alludes to the settlement of disputes concerning the interpretation or execution of the Treaty by reference to a special claims tribunal or other agreed means. On 12 June 1952 the following Agreement for the Settlement of Disputes arising under Article 15 (a) of the Treaty (dealing with the return of Allied property in Japan during the war) was opened at Washington for signature by any state signatory to the Treaty of Peace. It was signed for Japan on 12 June 1952 and for the United States on 19 June 1952, entering into force between the two countries on the latter date.

The text is from U. S. Treaties and Other International Acts Series 2550.

The Governments of the Allied Powers signatory to this Agreement and the Japanese Government desiring, in accordance with Article 22 of the Treaty of Peace with Japan signed at San Francisco on September 8, 1951, to establish procedures for the settlement of disputes concerning the interpretation and execution of Article 15 (a) of the Treaty have agreed as follows:

ARTICLE I. In any case where an application for the return of property, rights or interests has been filed in accordance with the provisions of Article 15 (a) of the Treaty of Peace, the Japanese Government shall within six months from the date of such application, inform the Government of the Allied Power of the

action taken with respect to such application. In any case where a claim for compensation has been submitted by the Government of an Allied Power to the Government of Japan in accordance with the provisions of Article 15 (*a*) of the Treaty and the Allied Powers Property Compensation Law (Japanese Law No. 254, 1951), the Japanese Government shall inform the Government of the Allied Power of its action with respect to such claim within eighteen months from the date of submission of the claims. If the Government of an Allied Power is not satisfied with the action taken by the Japanese Government with respect to an application for the return of property, rights, or interests, or with respect to a claim for compensation, the Government of the Allied Power, within six months after it has been advised by the Japanese Government of such action, may refer such claim or application for final determination to a commission appointed as hereinafter provided.

ARTICLE II. A commission for the purpose of this Agreement shall be appointed upon request to the Japanese Government made in writing by the Government of an Allied Power and shall be composed of three members; one, appointed by the Government of the Allied Power, one, appointed by the Japanese Government, and the third, appointed by mutual agreement of the two Governments. Each commission shall be known as the (name of the Allied Power concerned)—Japanese Property Commission.

ARTICLE III. The Japanese Government may appoint the same person to serve on two or more commissions; Provided, however, that if, in the opinion of the Government of the Allied Power, the service of the Japanese member on another commission or commission unduly delays the work of the Commission, the Japanese Government shall upon the request of the Government of the Allied Power appoint a new member. The Government of an Allied Power and the Japanese Government may agree to appoint as a third member, a person serving as a third member on other commissions; Provided, however, that if, in the opinion of either the Government of the Allied Power or the Japanese Government, the service of the third member on another commission or commissions unduly delays the work of the commission, either party may require that a new third member be appointed by agreement of the Government of the Allied Power and the Japanese Government.

ARTICLE IV. If the Japanese Government or the Government of the Allied Power fails to appoint a member within thirty days of the request referred to in Article II or, if the two Governments fail to agree on the appointment of a third member within ninety days of the request referred to in Article II, the Government which has already appointed a member in the first case, and either the Government of the Allied Power or the Japanese Government in the second case may request the President of the International Court of Justice to appoint such member or members. Any vacancy which may occur in the membership of a commission shall be filled in the manner provided in Article II and III.

ARTICLE V. Each commission created under this Agreement shall determine its own procedure, adopting rules conforming to justice and equity.

ARTICLE VI. Each Government shall pay the remuneration of the member appointed by it. If the Japanese Government fails to appoint a member, it shall pay the remuneration of the member appointed on its behalf. The remuneration of the third member of each commission and the expenses of each commission shall be fixed by, and borne in equal shares by the Government of the Allied Power and the Japanese Government.

ARTICLE VII. The decision of the majority of the members of the commission shall be the decision of the commission, which shall be accepted as final and binding by the Government of the Allied Power and the Japanese Government.

ARTICLE VIII. This Agreement shall be open for signature by the government of any state which is a signatory to the Treaty of Peace. This Agreement shall come into force between the Government of an Allied Power and the Japanese Government upon the date of its signature by the Government of the Allied Power and the Japanese Government, or upon that date of the entry into force of the Treaty of Peace between the Allied Power whose Government is a signatory hereto and Japan, whichever is the later.

ARTICLE IX. This Agreement shall be deposited in the archives of the Government of the United States of America, which shall furnish each signatory government with a certified copy thereof.

C. CONVENTIONS WITH THE FEDERAL REPUBLIC OF GERMANY

The present status of these Conventions, signed at Bonn on 26 May 1952, is discussed in later notes. They do not represent a final peace settlement with Germany, part of which, as the "German Democratic Republic," remains under the effective control of the Soviet Union. They are intended to bring to an end the military occupations of the Federal Republic of Germany, subject to the important reservations made in Article 2 of the Convention on Relations. They were produced by the same negotiations as the Treaty establishing the European Defense Community, with its accompanying Protocols, which was signed in Paris on the following day (27 May 1952), and all these agreements provide a new scheme of organization, not only for a partial settlement of problems arising out of the war, but for integrating Western Germany into the community of European nations and making it possible for her to contribute to the common defense of Europe. The Conventions contain important provisions for periodic revision.

For documentation on the occupation of Germany and the establishment of the Federal Republic, see *Occupation of Germany: Policy and Progress, 1945-1946*, (U. S. Department of State Publication 2783), and *Germany 1947-1949: The Story in Documents* (U. S. Department of State Publication 3556).

On the status of the Ruhr, see the agreement setting up an International Authority (83 United Nations Treaty Series, p. 105) and three agreements contained in U. S. Treaties and Other International Acts Series 2718. The status of the Saar was under discussion in April 1954 between France and the Federal Republic of Germany; various solutions, including that of international control, had been proposed. It was understood that a satisfactory settlement of the problem of the Saar was considered by the Government of France to be prerequisite to French ratification of the Conventions and the European Defense Community treaty. The present status of the Saar is governed by the Franco-Saar Conventions of 3 March 1950 and the conventions signed on 20 May 1953 on behalf of France and the Saar.

1. Convention on Relations Between the Three Powers and the Federal Republic of Germany, Bonn, 26 May 1952

NOT IN FORCE ON 1 APRIL 1954

This Convention is the principal instrument signed at Bonn, and is general in tenor. Settlement in more detail is provided by the Convention on the Settlement of Matters Arising out of the War and the Occupation, the Convention on the Rights and Obligations of Foreign Forces and their Members in the Federal Republic of Germany, the Finance Convention (not reproduced in this volume), and certain other documents of the same date reproduced in the present volume. A detailed summary of all the Conventions and Agreements is in 26 Department of State Bulletin (1952), pp. 888-895.

The four Conventions, together with all the related documents except the Agreement on the Tax Treatment of the Forces and their Members (which requires ratification separately) must be ratified by the signatories in accordance with their several constitutional procedures, and are to enter into force upon (1) the deposit of all instruments of ratification with the Government of the Federal Republic of Germany and (2) the entry into force of the Treaty establishing the European Defense Community. See Articles 8 and 11 of the Convention on Relations, and Articles 131 and 132 of the European Defense Community Treaty.

On 1 August 1952, the Parliament of the United Kingdom gave formal approval to the Conventions with the Federal Republic of Germany, the Treaty of 27 May 1952 between the United Kingdom and the European Defense Community, and the Protocol to the North Atlantic Treaty on guarantees to the members of the European Defense Community (Hansard, 504 H. C. Deb. 5 s., p. 1959). On 2 August 1952, the President of the United States ratified the Convention on Relations (which carries with it ratification of the other Conventions and agreements) and the Protocol to the North Atlantic Treaty (27 Department of State Bulletin (1952), p. 220). In its advice and consent, the United States Senate stated its interpretation of certain constitutional procedures referred to in the Convention; this interpretation was concerned with the internal relationships of the component parts of the Government of the United States, and did not affect obligations under the Convention.

On 27 March 1954 the President of the Federal Republic of Germany signed laws ratifying the Conventions and the European Defense Community Treaty. For the constitutional background of this act, see the note on the Treaty establishing the European Defense Community.

The text is printed in British Parliamentary Papers, Germany No. 6 (1952), Cmd. 8571, and in U. S. Senate Executives Q and R, 82d Congress, 2d session (2 June 1952), p. 9. The Convention is accompanied by two Annexes: a Declaration by the Federal Republic on Aid to Berlin, and the Charter of an Arbitration Tribunal set up by the Convention (Article 9).

CONVENTION ON RELATIONS BETWEEN THE THREE POWERS AND THE FEDERAL REPUBLIC OF GERMANY

THE United States of America,
the United Kingdom of Great Britain and Northern Ireland
and the French Republic,
of the one part, and
the Federal Republic of Germany,
of the other part:

WHEREAS a peaceful and prosperous European Community of nations firmly bound to the other free nations of the world through dedication to the principles of the Charter of the United Nations can be attained only through united support and defence of the common freedom and the common heritage;

WHEREAS it is the common aim of the Signatory States to integrate the Federal Republic on a basis of equality within the European Community itself included in a developing Atlantic Community;

WHEREAS the achievement of a fully free and unified Germany through peaceful means and of a freely negotiated peace settlement, though prevented for the present by measures beyond their control, remains a fundamental and common goal of the Signatory States;

WHEREAS the retention of the Occupation Statute with its powers of intervention in the domestic affairs of the Federal Republic is inconsistent with the purpose of integrating the Federal Republic within the European Community;

WHEREAS the United States of America, the United Kingdom of Great Britain and Northern Ireland and the French Republic (hereinafter referred to as "the Three Powers") are therefore determined to retain only those special rights of which the retention is necessary, in the common interest of the Signatory States, having regard to the special international situation in Germany;

WHEREAS the Federal Republic has developed free and responsible political institutions and is determined to maintain the liberal-democratic federal constitution which guarantees human rights and is enshrined in its Basic Law;

WHEREAS the Three Powers and the Federal Republic recognize that both the new relationship to be established between them by the present Convention and its related Conventions and the Treaties for the creation of an integrated European community, in particular the Treaty on the Establishment of the European Community for Coal and Steel and the Treaty on the Establishment of the European Defence Community, are essential steps to the achievement of their common aim for a unified Germany integrated within the European Community;

HAVE entered into the following Convention setting forth the basis for their new relationship:

ARTICLE 1. 1. The Federal Republic shall have full authority over its internal and external affairs, except as provided in the present Convention.

2. The Three Powers will revoke the Occupation Statute and abolish the Allied High Commission and the Offices of the Land Commissioners upon the entry into force of the present Convention and the Conventions listed in Article 8 (hereinafter referred to as "the related Conventions").

3. The Three Powers will thenceforth conduct their relations with the Federal Republic through Ambassadors who will act jointly in matters the Three Powers consider of common concern under the present Convention and the related Conventions.

ARTICLE 2. 1. The Three Powers retain, in view of the international situation, the rights, heretofore exercised or held by them, relating to (a) the stationing of armed forces in Germany and the protection of their security, (b) Berlin, and (c) Germany as a whole, including the unification of Germany and a peace settlement.

2. The Federal Republic, on its part, will refrain from any action prejudicial to these rights and will cooperate with the Three Powers to facilitate their exercise.

ARTICLE 3. 1. The Federal Republic agrees to conduct its policy in accordance with the principles set forth in the Charter of the United Nations and with the aims defined in the Statute of the Council of Europe.

2. The Federal Republic affirms its intention to associate itself fully with the community of free nations through membership in international organizations contributing to the common aims of the free world. The Three Powers will support applications for such membership by the Federal Republic at appropriate times.

3. In their negotiations with States with which the Federal Republic maintains no relations, the Three Powers will consult with the Federal Republic in respect to matters directly involving its political interests.

4. At the request of the Federal Government, the Three Powers will arrange to represent the interests of the Federal Republic in relations with other States and in certain international organizations or conferences, whenever the Federal Republic is not in a position to do so itself.

ARTICLE 4. 1. The mission of the armed forces stationed by the Three Powers in the Federal territory will be the defence of the free world, of which the Federal Republic and Berlin form part.

2. The Three Powers will consult with the Federal Republic, insofar as the military situation permits, regarding the stationing of such armed forces in the Federal territory. The Federal Republic will cooperate fully, in accordance with the present Convention and the related Conventions, in facilitating the tasks of such armed forces.

3. The Three Powers will obtain the consent of the Federal Republic before bringing into the Federal territory, as part of their forces, contingents of the armed forces of any nation not now providing such contingents. Such contingents may nevertheless be brought into the Federal territory without the consent of the Federal Republic in the event of external attack or imminent threat of such attack but, after the elimination of the danger, may only remain there with its consent.

4. The Federal Republic will participate in the European Defence Community in order to contribute to the common defence of the free world.

ARTICLE 5. 1. In the exercise of their right to protect the security of the armed forces stationed in the Federal territory, the Three Powers will conform to the provisions of the following paragraphs of this Article.

2. In case the Federal Republic and the European Defence Community are unable to deal with a situation which is created by

- an attack on the Federal Republic or Berlin,
- subversion of the liberal democratic basic order,
- a serious disturbance of public order or
- a grave threat of any of these events,

and which in the opinion of the Three Powers endangers the security of their forces, the Three Powers may, after consultation to the fullest extent possible

with the Federal Government, proclaim a state of emergency in the whole or any part of the Federal Republic.

3. Upon the proclamation of a state of emergency, the Three Powers may take such measures as are necessary to maintain or restore order and to ensure the security of the Forces.

4. The proclamation will specify the area to which it applies. The state of emergency will not be maintained any longer than necessary to deal with the emergency.

5. The Three Powers shall consult the Federal Government to the fullest extent possible while the state of emergency continues. They will utilize to the greatest possible extent the assistance of the Federal Government and the competent German authorities.

6. If the Three Powers do not terminate a state of emergency within thirty days after a request by the Federal Government to do so, the Federal Government may submit a request to the Council of the North Atlantic Treaty Organization to examine the situation and consider whether the state of emergency should be terminated. If the Council concludes that continuance of the state of emergency is no longer justified, the Three Powers will restore the normal situation as promptly as possible.

7. Independently of a state of emergency, any military commander may, if his forces are imminently menaced, take such immediate action appropriate for their protection (including the use of armed force) as is requisite to remove the danger.

8. In all other respects, the protection of the security of these forces is governed by the provisions of the Convention on the Rights and Obligations of Foreign Forces and their Members in the Federal Republic of Germany referred to in Article 8 of the present Convention.

ARTICLE 6. 1. The Three Powers will consult with the Federal Republic in regard to the exercise of their rights relating to Berlin.

2. The Federal Republic, on its part, will cooperate with the Three Powers in order to facilitate the discharge of their responsibilities with regard to Berlin. The Federal Republic will continue its aid to the political, cultural, economic and financial reconstruction of Berlin and, in particular, will grant it such aid as is set out in the annexed Declaration of the Federal Republic (Annex A to the present Convention).

ARTICLE 7. 1. The Three Powers and the Federal Republic are agreed that an essential aim of their common policy is a peace settlement of the whole of Germany, freely negotiated between Germany and her former enemies, which should lay the foundation for a lasting peace. They further agree that the final termination of the boundaries of Germany must await such a settlement.

2. Pending the peace settlement, the Three Powers and the Federal Republic will cooperate to achieve, by peaceful means, their common aim of a unified Germany enjoying a liberal-democratic constitution, like that of the Federal Republic, and integrated within the European Community.

3. In the event of the unification of Germany the Three Powers will, subject to such adjustments as may be agreed, extend to a unified Germany the rights which the Federal Republic has under the present Convention and the related Conventions and will for their part agree that the rights under the Treaties for the formation of an integrated European community should be similarly extended, upon the assumption by such a unified Germany of the obligations of the Federal Republic toward the Three Powers or to any of them under those Conventions and Treaties. Except by common consent of all the Signatory States the Federal Republic will not conclude any agreement or enter into any arrangement which would impair the rights of the Three Powers under those Conventions and Treaties or lessen the obligations of the Federal Republic thereunder.

4. The Three Powers will consult with the Federal Republic on all other matters involving the exercise of their rights relating to Germany as a whole.

ARTICLE 8. 1. The Three Powers and the Federal Republic have concluded the following related Conventions which will enter into force simultaneously with the present Convention:

Convention on the Rights and Obligations of Foreign Forces and their Members in the Federal Republic of Germany;

Finance Convention;

Convention on the Settlement of Matters Arising out of the War and the Occupation.

2. During the transitional period provided for in paragraph 4 of Article 6 of Chapter One of the Convention on the Settlement of Matters Arising out of the War and the Occupation, the rights of the Three Powers referred to in that paragraph shall be deemed to be included within the exception set forth in paragraph 1 of Article 1 of the present Convention.

ARTICLE 9. 1. There is hereby established an Arbitration Tribunal which shall function in accordance with the provisions of the annexed Charter (Annex B to the present Convention).

2. The Arbitration Tribunal shall have exclusive jurisdiction over all disputes arising between the Three Powers and the Federal Republic under the provisions of the present Convention or the annexed Charter or any of the related Conventions which the parties are not able to settle by negotiation, except as otherwise provided by paragraph 3 of this Article or in the annexed Charter or in the related Conventions.

3. Any dispute involving the rights of the Three Powers referred to in Article 2, or action taken thereunder, or involving the provisions of paragraphs 1 to 7 inclusive of Article 5, shall not be subject to the jurisdiction of the Arbitration Tribunal or of any other tribunal or court.

ARTICLE 10. The Three Powers and the Federal Republic will review the terms of the present Convention and the related Conventions

(a) upon the request of any one of them, in the event of the unification of Germany or the creation of a European federation; or

(b) upon the occurrence of any other event which all of the Signatory States recognize to be of a similarly fundamental character.

Thereupon, they will, by mutual agreement, modify the present Convention and related Conventions to the extent made necessary or advisable by the fundamental change in the situation.

ARTICLE II. 1. The present Convention and the related Conventions shall be ratified or approved by the Signatory States in accordance with their respective constitutional procedures. The instruments of ratification shall be deposited by the Signatory States with the Government of the Federal Republic of Germany.

2. The present Convention shall enter into force immediately upon

(a) the deposit by all the Signatory States of instruments of ratification of the present Convention and of all the Conventions listed in Article 8; and

(b) the entry into force of the Treaty on the Establishment of the European Defence Community.

3. The present Convention and the related Conventions shall be deposited in the Archives of the Government of the Federal Republic of Germany, which will furnish each Signatory State with certified copies thereof and notify each such State of the date of the entry into force of present Convention and the related Conventions.

IN FAITH WHEREOF the undersigned representatives duly authorized thereto by their respective Governments have signed the present Convention.

Done at Bonn this twenty-sixth day of May 1952, in three texts, in the English, French and German languages, all being equally authentic.

ANNEX A TO THE CONVENTION ON RELATIONS BETWEEN THE THREE POWERS AND THE FEDERAL REPUBLIC OF GERMANY

DECLARATION OF THE FEDERAL REPUBLIC ON AID TO BERLIN

(Agreed Translation)

In view of the special role which Berlin has played and is destined to play in the future for the self-preservation of the free world, aware of the ties connecting the Federal Republic with Berlin, and motivated by the desire to strengthen and to reinforce the position of Berlin in all fields, and in particular to bring about insofar as possible an improvement in the economy and the financial situation in Berlin including its productive capacity and level of employment, the Federal Republic undertakes

(a) to take all necessary measures on its part in order to ensure the maintenance of a balanced budget in Berlin through appropriate assistance;

(b) to take adequate measures for the equitable treatment of Berlin in the control and allocation of materials in short supply;

(c) to take adequate measures for the inclusion of Berlin in assistance received by the Federal Republic from outside sources in reasonable proportion to the unutilized industrial resources existing in Berlin;

(d) to promote the development of Berlin's external trade, to accord Berlin such favoured treatment in all matters of trade policy as circumstances

warrant and to provide Berlin within the limit of possibility and in consideration of the participation of Berlin in the foreign currency control by the Federal Republic, with the necessary foreign currency;

(e) to take all necessary measures on its part to ensure that the city remain in the currency area of the Deutsche Mark West, and that an adequate money supply is maintained in the city;

(f) to assist in the maintaining in Berlin of adequate stockpiles of supplies for emergencies;

(g) to use its best efforts for the maintenance and improvement of trade and of communications and transportation facilities between Berlin and the Federal territory, and to cooperate in accordance with the means at its disposal in their protection or their reestablishment;

(h) to facilitate the inclusion of Berlin in the international agreements concluded by the Federal Republic, provided that this is not precluded by the nature of the agreements concerned.

ANNEX B TO THE CONVENTION ON RELATIONS BETWEEN THE THREE POWERS AND THE FEDERAL REPUBLIC OF GERMANY

Charter of the Arbitration Tribunal

PART I—COMPOSITION, ORGANIZATION AND SEAT OF THE TRIBUNAL

ARTICLE I. 1. The Tribunal shall be composed of nine members who shall have the qualifications required in their respective countries for appointment to the highest judicial offices or shall be lawyers of recognized competence in international law.

2. The nine members of the Tribunal shall be appointed as follows:

(a) Three members, appointed by the Governments of the Three Powers, one by each Government;

(b) Three members appointed by the Federal Government;

(c) Three members (hereinafter referred to as "the neutral members") appointed by agreement between the Governments of the Three Powers and the Federal Government, none of whom shall be a national of any one of the Three Powers or a German national.

3. The Governments of the Three Powers and the Federal Government shall make known their first appointments not later than sixty days after the entry into force of the present Charter. Within the same period the Governments of the Three Powers and the Federal Government shall agree upon the three neutral members. If, after the expiry of such period, one or more of the neutral members shall not have been appointed, either the Governments of the Three Powers or the Federal Government may request the President of the International Court of Justice to appoint such neutral member or members.

4. Appointments to fill vacancies shall be made in the same manner as the appointment of the member to be replaced. However, if a vacancy to be filled by the Government of one of the Three Powers or the Federal Government is not so filled within one month of its occurring, either the Governments of the Three Powers or the Federal Government may request the President of the International Court of Justice to make an interim appointment to the vacancy of a person who shall not be a national of any one of the Three Powers or a German national and who shall serve for a period of six months or until the vacancy is filled in the normal manner, whichever is longer. If the member to be replaced is a neutral member, the Governments of the Three Powers or the Federal Government may request the President of the International Court of Justice to make such appointment, if the agreement envisaged by sub-paragraph (c) of paragraph 2 of this Article has not been reached within one month of the vacancy occurring.

5. The Tribunal may, by majority vote, declare a vacancy if, in its opinion, a member has, without reasonable excuse, failed or refused to participate in the hearing or decision of a case to which he has been assigned.

ARTICLE 2. 1. The members of the Tribunal shall be appointed for four years. They may be reappointed after the expiration of their terms of office.

2. A member whose term of office has expired shall nevertheless continue to discharge his duties until his successor is appointed. After such appointment he shall, unless the President of the Tribunal directs otherwise, continue to discharge his duties respecting pending cases in which he has participated until such cases have been finally decided.

3. Members of the Tribunal shall not engage in any activity incompatible with the proper exercise of their duties, nor shall they participate in the adjudication of any case with which they have previously been concerned in another capacity or in which they have a direct interest. Differences of opinion regarding the applicability of this paragraph shall be resolved by the Tribunal.

4. (a) During and after their term of office, the members of the Tribunal shall enjoy immunity from suits in respect of acts performed in the exercise of their official duties.

(b) The members of the Tribunal who are not of German nationality shall, moreover, enjoy in the Federal territory the same privileges and immunities as are accorded chiefs of diplomatic missions. If sittings or official acts take place in the territory of one of the Three Powers, the members of the Tribunal who are not of the nationality of the country in which the sitting or act takes place shall enjoy diplomatic privileges and immunities in such country.

5. Every member of the Tribunal shall, before taking office, make a declaration at a public session that he will exercise his duties impartially and conscientiously.

6. Subject to the provisions of paragraph 5 of Article 1 of the present Charter, no member may be dismissed before the expiry of his term of office, or before the

termination of his duties in accordance with paragraph 2 of this Article, except by agreement between the Governments of the Three Powers and the Federal Government; or, in the case of a member appointed by the President of the International Court of Justice, by agreement between the Governments of the Three Powers and the Federal Government, with the consent of the President of the International Court of Justice.

ARTICLE 3. The Tribunal shall elect from the neutral members a President and two Vice Presidents to serve as such for two years.

ARTICLE 4. 1. The Tribunal, presided over by the President or one of the Vice Presidents, shall sit either in plenary session or in Chambers of three members.

2. A plenary session shall, in principle, include all the members of the Tribunal. A quorum of five members shall suffice to constitute a plenary session; it shall be composed of an uneven number of members and in any case shall consist of an equal number of the members appointed by the Governments of the Three Powers and of those appointed by the Federal Government, and at least one neutral member.

3. Chambers shall be composed of one of the members appointed by the Governments of the Three Powers, one of the members appointed by the Federal Government and one neutral member.

4. The Tribunal in plenary session shall nominate the members of such Chambers, define the categories of cases with which a Chamber will be concerned or assign a particular case to a Chamber.

5. Any decision of a Chamber, on a case assigned to it, shall be deemed to be a decision of the Tribunal.

6. The final decision on a case assigned to a Chamber must be taken by the Tribunal in plenary session, if one of the parties so requests before the Chamber itself has pronounced a final decision.

ARTICLE 5. The Tribunal shall sit in public unless it decides otherwise. The deliberations of the Tribunal shall be and shall remain secret as shall all facts brought to its attention in closed session.

ARTICLE 6. 1. A Registrar shall be responsible for the administration of the Tribunal; he shall have the necessary staff at his disposal. The Registrar shall handle the transmission of documents, keep a record of petitions submitted to the Tribunal and be responsible for the archives and accounts of the Tribunal.

2. The first Registrars shall be appointed by agreement between the Three Powers and the Federal Republic. The Registrar shall be a permanent official subject to dismissal and replacement only by the Tribunal.

ARTICLE 7. The seat of the Tribunal shall be located within the Federal territory at such place as shall be determined by a subsidiary administrative agreement between the Governments of the Three Powers and the Federal Government. The Tribunal may, however, sit and exercise its functions elsewhere, when it deems it desirable to do so.

ARTICLE 8. Questions pertaining to the operating costs of the Tribunal, including the official emoluments of members, as well as arrangements for secur-

ing the inviolability of the premises of the Tribunal, shall be regulated by the subsidiary administrative agreement referred to in Article 7 of the present Charter.

PART II—COMPETENCE AND POWERS OF THE TRIBUNAL

ARTICLE 9. 1. The Tribunal shall have jurisdiction over all disputes arising between the Three Powers and the Federal Republic under the provisions of the Convention on Relations between the Three Powers and the Federal Republic of Germany (hereinafter referred to as "the Convention") or the present Charter or any of the related Conventions listed in Article 8 of the Convention, which the parties are not able to settle by negotiation, except disputes expressly excluded from its jurisdiction by the provisions of the Convention or the present Charter or any of the related Conventions.

2. (a) The Tribunal shall, moreover, have jurisdiction in respect of any question as to the extent of the competence of the following authorities:

The Board of Review referred to in Chapter Two of the Convention on the Settlement of Matters Arising out of the War and the Occupation;

The Supreme Restitution Court referred to in Chapter Three of that Convention;

The Arbitral Commission on Property, Rights and Interests in Germany referred to in Chapters Five and Ten of that Convention.

(b) A question as to the extent of the competence of these authorities may be raised at any time after the institution of proceedings before them and also after a final decision.

(c) The decisions of the Tribunal on these questions shall be binding on the authorities whose competence has been questioned.

3. The decisions of the authorities specified in subparagraph (a) of paragraph 2 of this Article shall be subject to the jurisdiction of the Tribunal and to the provisions of subparagraph (a) of paragraph 5 of Article 11 of the present Charter only to the extent contemplated in subparagraph (a) of paragraph 2 of this Article, unless the contrary is expressly provided in one of the related Conventions.

4. Decisions of the authorities provided for or referred to in the related Conventions, other than those specified in subparagraph (a) of paragraph 2 of this Article, shall be subject to review by the Tribunal, whether on questions as to the extent of competence or on the merits, only to the extent contemplated by paragraph 1 of this Article, unless the contrary is expressly provided in one of the related Conventions.

5. Only the Governments of one or more of the Three Powers, on the one hand, and the Federal Government, on the other, may be parties before the Tribunal. If the Federal Government brings a complaint against one or two of the Governments of the Three Powers, or if one or two of the Governments of the Three Powers brings a complaint against the Federal Government, the other Government or Governments of the Three Powers may apply to the Tribunal to be joined as parties.

ARTICLE 10. The Tribunal shall render its decisions in the form of judgments or directives which shall be binding on the parties.

ARTICLE 11. 1. Signatory States undertake to comply with the decisions of the Tribunal and to take the action required of them by such decisions.

2. The Tribunal may set a period of time for the execution of its decisions.

3. If a judgment of the Tribunal establishes that the provisions of a law or ordinance, applicable in the Federal territory, are in conflict with the provisions of the Convention or the present Charter or the related Conventions, it may order the party which has enacted such provisions to deprive them of effect, in whole or in part, in the Federal territory. Should this party fail to comply with the judgment of the Tribunal, the Tribunal may, at the request of the successful party, declare the provisions null, in whole or in part, in the Federal territory, with binding effect.

4. If a judgment of the Tribunal establishes that an administrative measure applicable in the Federal territory, is in conflict with the provisions of the Convention or the present Charter or the related Conventions, it may order the party which has taken such measure to annul it, in whole or in part, in the Federal territory. Should this party fail to comply with the judgment of the Tribunal, the Tribunal may, at the request of the successful party, declare the measure null, in whole or in part, in the Federal territory, with binding effect.

5. (a) If a judgment of the Tribunal establishes that a judicial decision, enforceable in the Federal territory, is in conflict with the basic principles of the Convention or the present Charter or the related Conventions it may annul such decision, in whole or in part, in the Federal territory. In such case the judicial proceedings shall be restored to the position in which they were before the judicial decision was given; in further proceedings the Tribunal's findings of fact and law shall be binding in the Federal territory.

(b) The provisions of sub-paragraph (a) of this paragraph shall not apply to decisions of Service Tribunals.

6. If a judgment of the Tribunal establishes that a party has failed to take action which it is obliged to take by the Convention or the present Charter or the related Conventions, the Tribunal may, in its judgment or, on the application of a party, in a second judgment, specify special measures which must be taken by the unsuccessful party in order to remedy the situation in compliance with the judgment. Should this party fail to take such special measures within the time specified by the Tribunal, the Tribunal may, on the application of the other party, authorize the latter to take appropriate measures to remedy the situation in compliance with the judgment. If, however, the measures which the unsuccessful party fails to take consist in the issue of legal provisions, the Tribunal may embody in its judgment provisions, not inconsistent with the Basic Law of the Federal Republic, creating rights and obligations for all persons and authorities in the Federal territory.

ARTICLE 12. 1. The Tribunal or, in a case of urgency, the President shall have the power, by the issue of directives, to take such measures as may be necessary

to conserve the respective rights of the parties pending the judgment of the Tribunal. Any directive issued by the President under this Article may be confirmed, amended or annulled by the Tribunal within seventy-two hours after the notification thereof to the parties.

2. The parties shall be afforded an opportunity to be heard prior to the issue of any directive by the Tribunal or by the President under this Article.

3. In the absence of the President, his powers under this Article shall be exercised by one of the Vice Presidents to be designated by the President for this purpose.

PART III—PROCEEDINGS

ARTICLE 13. The official languages of the Tribunal shall be French, English and German.

ARTICLE 14. Proceedings before the Tribunal shall be instituted by a written petition filed with the Tribunal which shall contain a statement of the facts giving rise to the dispute, reference to the provisions of the Convention or the present Charter or the related Conventions which are invoked, legal argument, and conclusion.

ARTICLE 15. 1. The parties shall be represented by agents. They may be assisted by counsel.

2. Such agents and counsel shall enjoy immunity from suit in respect of acts performed in the exercise of their duties.

ARTICLE 16. 1. The presiding member may summon the agents in order to be informed of their wishes concerning the time limits and conduct of the proceedings.

2. The presiding member shall set the time limits for the submission of pleadings and shall prescribe all the measures necessary for the conduct of the proceedings.

3. Certified copies of all documents submitted by either party shall be immediately forwarded to the other party through the Registrar.

ARTICLE 17. The proceedings shall consist of two parts: written and oral. Oral proceedings may be dispensed with if both parties so request.

ARTICLE 18. 1. Written proceedings shall consist of a statement of the complainant's case, the defendant's answer and, unless the Tribunal directs otherwise, a reply and a rejoinder.

2. Counterclaims shall be permissible.

ARTICLE 19. 1. Oral proceedings shall consist of the complainant's argument, the defendant's argument and, unless the Tribunal directs otherwise, a reply and a rejoinder, as well as hearings of witnesses and experts.

2. The Tribunal shall have power to demand the production of evidence, documentary or other, to require the attendance of witnesses to testify, to request expert opinion, and to direct inquiries to be made.

3. In the event that a party does not produce evidence which in the opinion of the Tribunal is relevant to the issues before it and which such party possesses

or is in a position to procure, the Tribunal shall proceed to give its decision notwithstanding the absence of such evidence.

4. The presiding member or any other member of the Tribunal may put questions to the parties, witnesses and experts.

5. A written record of the oral proceedings shall be kept and shall be signed by the presiding member and the Registrar.

ARTICLE 20. All decisions of the Tribunal shall be based on the Convention, the present Charter and the related Conventions. The Tribunal shall, in the interpretation of such Conventions, apply the generally accepted rules of international law governing the interpretation of treaties.

ARTICLE 21. 1. The Tribunal shall decide by majority vote.

2. Judgments shall state the reasons on which they are based.

3. Judgments shall be signed by the presiding member and by the Registrar.

4. Judgments shall be final and not subject to appeal.

5. In the case of a difference of opinion as to the meaning or scope of a judgment, the Tribunal may construe it by an interpretative judgment, on the application of either party and after having heard both parties.

ARTICLE 22. The revision of a judgment may not be requested of the Tribunal except upon the grounds of the discovery of a fact which is of such a nature as to exercise a decisive influence, and of which the Tribunal and the party requesting revision had been unaware before the pronouncement of the judgment always provided that such ignorance was not due to negligence on the part of the party requesting the revision.

ARTICLE 23. 1. Unless the Tribunal directs otherwise, each party to proceedings before the Tribunal shall pay its own costs.

2. The Tribunal shall bear the costs in respect of witnesses whose attendance it has required and expert opinions and inquiries which it has ordered.

ARTICLE 24. The Tribunal shall determine its own rules of procedure consistent with the present Charter.

PART IV—ADVISORY OPINIONS

ARTICLE 25. 1. The Tribunal may, at the joint request of the Governments of the Three Powers and of the Federal Government give an advisory opinion on any matter arising out of the Convention or the present Charter or the related Conventions, with the exception of those questions with which it would not have been competent to deal if they had been referred to it in the form of a dispute.

2. The Tribunal may, at the request of an authority referred to in paragraph 2 of Article 9 of the present Charter or at the request of the presiding member of such an authority, give an advisory opinion on the competence of such authority.

3. Advisory opinions shall not be binding.

2. Convention on the Settlement of Matters Arising Out of the War and the Occupation, Bonn, 26 May 1952

NOT IN FORCE ON 1 APRIL 1954

The text of this Convention is not reproduced here. It appears in U. S. Senate Executives Q and R, 82d Congress, 2d session (2 June 1952), p. 25, and in British Parliamentary Papers, Germany No. 6 (1952), Cmd. 8571, p. 75. An extended summary is given in 26 Department of State Bulletin (1952), p. 890. The Convention treats certain topics provisionally only, since other nations which were at war with Germany are entitled to participate in the final settlement.

The Parties agree that Allied legislation enacted during the occupation period will continue valid, but may be amended, repealed, or deprived of effect by the German authorities except where the change would prejudice agreed rights of the Three Powers; rights and obligations created by legislative, administrative, and judicial actions of the Powers also remain valid, and provision is made for winding up Occupation civil and criminal courts and for the continuing validity of their judgments. War criminals are to be delivered to the custody of the Federal Republic when the Convention comes into force, and a Mixed Board is set up to consider termination or reduction of sentences.

International agreements concluded by the Allied authorities on behalf of their respective zones of occupation remain valid as though they had been concluded by the Federal Republic. An agreed list of these agreements was communicated by the three High Commissioners at the time of signature (see British Parliamentary Papers, Germany No. 6 (1952), Cmd. 8571, pp. 144-173).

The Convention next provides for extensive measures of decartelization and decentralization of industry. Much of this work is already completed.

The Allied machinery for restoring identifiable property to victims of Nazi persecution is preserved, except that the Allied courts of appeal are succeeded by a Supreme Restitution Court of German, Allied and neutral members, the charter of which is annexed. The German machinery for compensating victims of the Nazis for other losses and injuries is retained and may be supplemented by legislation. Provisions are made for settling still existing claims, both of governments and of individuals, for restitution of property removed from other countries by German forces during the war, and an annex sets up a Federal Higher Authority on External Restitution for this purpose.

The question of reparations is left for an eventual peace treaty or for agreement between Germany and the various states concerned; meanwhile, the *status quo* is maintained. Certain occupation laws regulating title to property taken as reparation remain in force. On the question of German assets abroad, see the Agreement on Reparations from Germany, etc., signed at Paris on 14 January 1946, to which nineteen nations are parties, and the agreements supplementary to it (U. S. Treaties and other International Acts Series 1655, 1657, 1683, 1707, 1797, 1970, etc.).

Provisions are made for the status of homeless foreigners and for the admission and settlement of non-German political refugees.

The Federal Republic reaffirms its determination to settle German pre-war external debts, as expressed in an exchange of notes of 6 March 1951, which is annexed.

[This has been carried further since the Convention was signed. A decision of the Foreign Ministers of the Three Powers in May 1950, followed by further discussion and correspondence, led to the establishment on 24 May 1951 of a Tripartite Commission on German debts. This Commission summoned a general debt conference which convened in London in February 1952, at which the Federal Republic and over 25 creditor countries, as well as private creditor groups, were represented. The report of the Conference, which contained terms of settlement agreed upon by all interests concerned, was adopted on 8 August 1952, and agreements embodying the recommended plan were prepared by the Commission during the following months.]

On 27 February 1953, an intergovernmental agreement on German external debts was signed in London by representatives of the United States, the United Kingdom, France, Belgium, Canada, Ceylon, Denmark, Greece, the Republic of Ireland, Liechtenstein, Luxembourg, Norway, Pakistan, Spain, Sweden, Switzerland, the Union of South Africa, Yugoslavia, and the Federal Republic of Germany. It remained open for signature by Austria, Brazil, India, Italy, and the Netherlands. At the same time, bilateral agreements were signed between each of the Three Powers and the Federal Republic on claims for post-war economic assistance, while the United States and the Federal Republic concluded two further agreements settling terms of payment for surplus property sold to Germany since the war, and terms for settling awards of the U. S.-German Mixed Claims Commission. The total indebtedness of the Federal Republic under all these agreements is about \$3,270,000,000.

The agreements to which the United States is a party entered into force on 16 September 1953. On 9 October the Federal Republic gave notice of deposit of an initial payment of seventeen million dollars on obligations owed to the United States. See U. S. Department of State Bulletin, vol. 24, pp. 901-906; vol. 27, pp. 252-260; vol. 28, pp. 373-375; vol. 29, pp. 419-420, 598-599.

On 27 February and 1 April 1953, the Federal Republic and the United States signed agreements at Bonn which set up a validation procedure for German dollar bonds, as a protection against the negotiation of bonds looted during the closing days of the war. The first agreement came into force upon signature; the second required ratification and became effective with the external debt agreement on 16 September 1953. See U. S. Department of State Bulletin, vol. 28, pp. 367 and 569; vol. 29, p. 419.]

The Federal Republic waives on behalf of itself and its nationals all claims arising out of the war and occupation against former enemies or other specified states, subject to confirmation at the peace settlement. On the adjustment (of some \$2,000,000,000) made by the Three Powers in the amounts of their claims for post-war economic aid, see 25 Department of State Bulletin (1951), p. 1021. The Joint Export-Import Agency, which was set up by the Three Powers to rehabilitate the foreign trade of western Germany, was liquidated and its assets transferred to the Federal Republic by an agreement of 19/21 May 1952 between the Federal Republic and the Allied High Commission. The present Convention confirms this agreement; the Federal Republic is to indemnify the Three Powers for claims arising out of the Agency's operations.

Property rights in the Federal territory of former enemies and their nationals, affected by the war, are restored as far as possible. To effect this, certain legislation of the occupying powers is retained in force. United Nations nationals and their property are exempted from taxes imposed to meet German war burdens, except for a partial liability under a proposed "equalization of burdens" law which is concerned with taxes to deal with present social inequalities as well as war charges. In an annex, a Federal Higher Authority on Foreign Interests is set up to process claims to property, rights, or interests.

An annex to the Convention sets up an Arbitral Commission of three Allied, three German, and three neutral members to settle disputes arising in the fields of external restitution and restoration of foreign interests. This Commission is to have appellate jurisdiction over the two Federal Higher Authorities and a number of German courts.

The embassies of the Three Powers are to continue to use certain buildings and property now occupied by them.

The Federal Republic assumes full control over civil aviation, and gives various undertakings concerning the nature of this control. Certain rights are given to the Three Powers in connection with air traffic to Berlin and the control of foreign aircraft. The Three Powers are to provide technical services until the Federal Republic is prepared to take over.

For provisions concerning the entry into force of this Convention, see the headnote to the Convention on Relations.

3. Convention on the Rights and Obligations of Foreign Forces and Their Members in the Federal Republic of Germany, Bonn, 26 May 1952

NOT IN FORCE ON 1 APRIL 1954

This Convention is analogous to the NATO Status of Forces Agreement of 19 June 1951 and the Convention relative to the European Defense Forces and the Tax and Commercial Regime of the European Defense Community of 27 May 1952. The Convention includes three Annexes, on penal provisions, radio frequencies, and transitional measures. Under Article 2 of the Convention on Relations, the Three Powers retain rights heretofore exercised or held by them relating to the stationing of armed forces in Germany and the protection of their security.

The text of the Convention is in U. S. Senate Executives Q and R, 82d Congress, 2d session (2 June 1952), p. 89, and in British Parliamentary Papers, Germany No. 6 (1952), Cmd. 8571, p. 17. For provisions concerning the entry into force of the Convention, see the headnote to the Convention on Relations.

The UNITED STATES OF AMERICA, the UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND and the FRENCH REPUBLIC, of the one part, and the FEDERAL REPUBLIC OF GERMANY, of the other part, AGREE AS FOLLOWS:

PART ONE—GENERAL

ARTICLE 1—*Definitions*. In the present Convention and the Annexes hereto the following terms shall be given the meanings hereinafter indicated:

1. The Federal territory:

The territory in which the Federal Republic exercises jurisdiction, including its waters and the air space over such territory and waters.

2. The Three Powers:

The United States of America, the United Kingdom of Great Britain and Northern Ireland and the French Republic.

3. Other Sending State:

Any Power, other than one of the Three Powers, which by agreement with the Three Powers or any one of them, has Forces stationed in the Federal territory on the entry into force of the present Convention; and any other Power which may in future by such agreement have Forces stationed in the Federal territory, so far as such Power does not, with the consent of the Three Powers, conclude a separate Convention with the Federal Republic concerning the status of its Forces.

4. The Power concerned:

That Power whose rights and obligations are concerned in the particular case, namely:

(a) in the case of one of the Three Powers, that Power;

(b) in the case of another Sending State,

(i) that one of the Three Powers which has been named as the Power concerned on the basis of an agreement, to be notified to the Federal Government, between the Sending State and the Three Powers or any one of them; or

(ii) the Sending State itself to the extent to which it assumes vis-a-vis the Federal Republic, by an agreement concluded with the Three Powers or

any one of them, after ascertaining the views of the Federal Government, all or certain of the rights and obligations arising out of the present Convention, and gives the Federal Government formal notification thereof; for the remaining rights and obligations, one of the Three Powers to be notified to the Federal Republic in accordance with item (i) of this sub-paragraph.

5. The Forces:

The armed Forces of the Three Powers and of other Sending States stationed in the Federal territory.

6. The authorities of the Forces:

The authorities of the Forces of the Power concerned.

7. Members of the Forces:

(a) Persons who, by reason of their military service relationship are serving with the armed Forces of the Three Powers or other Sending State and are present in the Federal territory (military personnel):

(b) Other persons who are in the service of such armed Forces or attached to them, with the exception of persons who are nationals neither of one of the Three Powers nor of another Sending State and have been engaged in the Federal territory; provided that any such other persons who are stationed outside the Federal territory or Berlin shall be deemed to be members of the Forces only if they are present in the Federal territory on duty (followers).

The following are considered "members of the Forces": dependents, who are the spouses and children of persons defined in sub-paragraphs (a) and (b) of this paragraph or close relatives who are supported by such persons and for whom such persons are entitled to receive material assistance from the Forces. The definition "members of the Forces" shall include Germans only if they enlisted or were inducted into, or were employed by, the armed Forces of the Power concerned in the territory of that Power and at that time either had their permanent place of residence there or had been resident there for at least a year.

8. Germans:

Germans within the meaning of German law.

9. Accommodation:

Land, including all property permanently attached thereto, and all rights of use related to land, including such property, used or to be used by the Forces within the Federal territory.

10. Installations:

Land, buildings or part thereof, and all property permanently attached thereto, which, pursuant to the provisions of the present Convention, are allotted for the exclusive use or occupancy (*im ausschliesslichen Besitz*) of the Forces. This definition shall not apply to Article 20 of the present Convention.

ARTICLE 2—*Observance of German law. Political activity.* 1. The members of the Forces shall observe German law, and the authorities of the Forces shall undertake and be responsible for the enforcement of German law against them, except as otherwise provided in the present or in any other applicable Convention or agreement.

2. The members of the Forces shall abstain from any activity inconsistent with the spirit of the present Convention and shall in particular refrain from any political activity.

ARTICLE 3—*General obligations.* 1. In asserting the rights and immunities accorded to them under the present Convention, the Forces shall give due consideration to German interests, public and private, particularly by taking into account the capacity of the German economy and the essential domestic and export requirements of the Federal Republic and West Berlin.

2. The German authorities shall exercise the powers which they have under the Basic Law in the fields of legislation, administration and judicial action so as to ensure the protection and security of the Forces and their members and of the property of the Forces and their members, and to ensure the satisfaction of the requirements of the Forces and the performance of the obligations of the Federal Republic as provided in the present Convention.

3. The provisions of Annex A to the present Convention shall enter into force simultaneously with the present Convention. They shall apply also to offences committed in the Federal territory against the Armed Forces of the Three Powers stationed in Berlin. The Federal Republic shall not reduce the legal protection afforded by the provisions of this Annex.

4. The German authorities shall not subject or, within the scope of their powers, permit the subjection of the Forces and their members or the property of the Forces and their members, to prejudiced or less favourable treatment, other than that which is, in accordance with international law and practice, established by law with respect to aliens ordinarily resident in the Federal territory.

ARTICLE 4—*Reciprocal assistance and security.* 1. The authorities of the Forces and the German authorities shall extend full co-operation and assistance to each other to further and safeguard the security of any Power concerned and of the Federal Republic and that of the Forces stationed in the Federal territory, and their members, and of the property of the Forces and their members.

2. Such co-operation and assistance shall extend, in accordance with an understanding to be reached between the appropriate authorities, to the collection, exchange and protection of the security of all pertinent information.

ARTICLE 5—*Liaison.* The authorities of the Forces and the German authorities shall take appropriate measures to ensure close and reciprocal liaison.

PART TWO—JURISDICTION

Section I: Criminal proceedings

ARTICLE 6—*Criminal offences: Jurisdiction and applicable law.* 1 Except as otherwise provided in the present Convention, the authorities of the Forces shall exercise exclusive criminal jurisdiction over members of the Forces. A death sentence shall not be carried out in the Federal territory by the authorities of the Forces as long as German law does not provide for such penalty.

2. Where, under the law of the Power concerned, the service tribunals are not competent to exercise criminal jurisdiction over a member of the Forces, the German courts and authorities may exercise criminal jurisdiction over him in respect of an offence under German law committed against German interests, in accordance with the following provisions:

(a) No criminal proceedings, other than those provided for in Article 7 of the present Convention, or urgent preliminary investigations, after consultation, as far as practicable, with the authorities of the Forces, shall be instituted by the German courts or authorities until the authorities of the Forces have been consulted by the appropriate German authorities and been given the opportunity within twenty-one days from the receipt of information as to the facts involved, to make representations and recommendations in regard to the effect upon the security of the Forces of any such criminal proceedings; any such representations and recommendations shall be given due weight by the German courts or authorities. Such consultation shall, however, not be required where the alleged offence is one the penalty for which, under German law, is merely detention for not more than six weeks or a fine not exceeding DM 150 (*Uebertretung*), unless the German authorities consider that the security of the Forces is or might be involved in the case in question;

(b) The German courts and authorities shall, within the discretionary powers conferred on them by German law, abstain from prosecution in any case in which

(i) such abstention is permitted by German law; or

(ii) the offender has been suitably punished by disciplinary action of the authorities of the Forces;

(c) The German courts and authorities shall decide upon questions of arrest, detention and execution of punishment in accordance with the provisions of German law. The authorities of the Forces shall execute any warrants of arrest and detention. An accused person so taken into custody by the authorities of the Forces shall remain in their custody until, by virtue of a final (*rechtskräftig*) judicial decision, he is released or sentenced. The authorities of the Forces will take appropriate measures to prevent any prejudice to the course of justice (*Verdunkelungsgefahr*). They will hold an accused person so taken into custody at the disposal of the German courts and authorities, will grant access to him at any time by the German courts and authorities and on request present him to the German courts and authorities for the purposes of investigatory proceedings, trial and the serving of any sentence which may be imposed. Where an accused person is not taken into custody, the authorities of the Forces will take measures to ensure that he is at the disposal of the German courts or authorities for the purposes aforesaid;

(d) Any sentence of imprisonment shall be served in a German penal institution.

For the purposes of this paragraph, the expression "offence under German law committed against German interests" shall mean any offence under German

law other than an offence directed against the Forces, their members, or the property of the Forces or their members.

3. The exclusive jurisdiction of the German authorities over persons who are subject to German criminal jurisdiction shall include those cases in which the criminal offence is directed against the Forces, their members, or the property of the Forces or their members.

4. With the consent of the German authorities, the authorities of the Forces may transfer to German courts or authorities, for investigation, trial and decision, groups of, or particular, cases for which they are exclusively competent under paragraph 1 of this Article.

5. With the consent of the authorities of the Forces, the German authorities may transfer to the authorities of the forces, for investigation, trial and decision, particular cases of the nature described in paragraph 3 of this Article in which the alleged offender is not a German.

6. In cases under paragraphs 1 and 5 of this Article, the authorities of the Forces will apply their own law. If such cases involve acts which are punishable under German law, but not under the law of the Power concerned, German law shall apply.

7. In cases under paragraphs 3 and 4 of this Article, German law shall apply.

ARTICLE 7—*Arrest, search and seizure*. 1. Members of the Forces who properly identify themselves by means of an identity document issued under Article 24 of the present Convention shall not be subject to arrest by German authorities.

2. German authorities may, however, take into custody a member of the Forces, without subjecting him to the ordinary routine of arrest, in order immediately to deliver him, together with any weapons or items seized, to the nearest appropriate authorities of the Forces.

(a) when so requested by the authorities of the Forces;

(b) in the following cases in which the authorities of the forces are unable to act with the necessary promptness;

(i) when apprehended in *flagrante delicto*

(1) for the commission or attempted commission of a criminal offense which results or might result in serious injury to persons or property, or serious impairment of other legally protected rights (*Rechtsgüter*); or

(2) insofar as this appears necessary to abate an already existing serious disturbance of public order;

(ii) if there is danger of flight, for the commission or attempted commission of espionage to the prejudice of the Federal Republic.

3. (a) The German authorities may search a member of the Forces or the property in his immediate possession

(i) when so requested by the authorities of the Forces;

(ii) if he is taken into custody under paragraph 2 of this Article, to the extent necessary to disarm him or to seize any item constituting proof of the criminal offence for which he is taken into custody.

(b) The provisions of the fourth sentence of paragraph 5 of Article 35 of the present Convention shall not be affected.

(c) The official quarters of a member of the Forces, or where there are none the residence occupied by him with permission of the authorities of the Forces, may not be searched by German authorities, except at the request of the authorities of the Forces. If such residence of the member of the Forces is not an installation, either his consent or that of the authorities of the Forces to the search shall be sufficient.

4. The German authorities shall notify the appropriate authorities of the Forces of the arrest of any person working in the service of the Forces.

5. The appropriate authorities of the Forces may

(a) arrest members of the Forces;

(b) take into custody a person who is subject to German criminal jurisdiction, without subjecting him to the ordinary routine of arrest, in order immediately to deliver him, together with any weapons or items seized, to the nearest appropriate German authorities

(i) when so requested by the German authorities;

(ii) in the following cases in which the German authorities are unable to act with the necessary promptness:

(1) when apprehended in *flagrante delicto* for the commission or attempted commission of a criminal offence against the Forces, their members, or the security, property or other legally protected rights (*Rechtsgüter*) of the Forces or their members; or

(2) if there is danger of flight, for the commission, or attempted commission, of a criminal offence under Sections 1 to 9 inclusive of Annex A to the present Convention;

(iii) within an installation, when there are reasonable grounds to believe (*dringender Verdacht*) that his presence is unauthorized or that he has committed a criminal offence within the installation.

6. Where the authorities of the Forces believe that a person subject to German jurisdiction has been guilty of a criminal offence under Sections 1 to 11 inclusive of Annex A to the present Convention, the following special provisions shall apply:

(a) If the suspect is to be arrested by the German authorities, the authorities of the Forces shall, if practicable, be given timely notification and may designate investigators to be present at the arrest. The latter may also be present at any searches or seizures undertaken in connection with the investigation. The authorities of the Forces shall have the exclusive right for a period not to exceed twenty-one days following the arrest, to conduct interrogations of the suspect concerning any offenses of which he is suspected and related matters. For this purpose their investigators shall have access to the suspect at any time. An official designated by the German investigating authority may be present at the interrogation, of the conduct of which such authority shall be given timely notification. The German investigating authority shall take appropriate measures to prevent any prejudice to the course of justice (*Verdunkelungsgefahr*) and shall refrain from any investigation activity of its own unless the investigators

of the Forces request such investigation. During the interrogation by the investigators of the Forces, it shall, at their request, make the applications provided for in the German Code of Criminal Procedure and shall see to it that the judicial decisions suited to promote the investigation proceedings are issued and that the measures ordered in such decisions are carried out. At the conclusion of the investigation by the investigators of the Forces, in any event not later than twenty-one days after the arrest, the interrogations and the other investigation proceedings shall be continued by the German investigating authority. The investigators of the Forces shall deliver to the German investigating authority all evidence collected in the course of the investigation, unless security considerations require otherwise;

(b) If the suspect is not a German, the provisions of sub-paragraph (a) of this paragraph shall apply, subject to the following proviso.

The appropriate authorities of the Forces may take the suspect into their own custody for a period of twenty-one days and may themselves conduct all interrogations and other investigations. For the judicial measures required for this period, a member of the Forces authorised to exercise judicial functions shall be assigned to the competent German courts as an accessor not entitled to vote.

7. The authorities of the Forces may search a person who is subject to German jurisdiction or the property in his immediate possession

(a) when so requested by the German authorities;

(b) if he is taken into custody under sub-paragraph (b) of paragraph 5 of this Article, to the extent necessary to disarm him or to seize any item constituting proof of the criminal offense for which he is taken into custody.

8. The constitutional immunities of the Federal President and the members of the German Federal and Land legislative bodies shall not be impaired by the provisions of this article.

ARTICLE 8—*Procedure and cooperation in criminal proceedings.* 1. The authorities of the Forces shall take such measures against members of the Forces who have committed criminal offences against German interests as they would take if such offences had been committed against the Power concerned, the Forces or their members, or their property.

2. The German authorities shall take such measures against persons subject to their criminal jurisdiction for criminal offences against the Forces, their members, or the property of the Forces or members as they would take if such offences had been committed against the Federal Republic, its Laender or its nationals, or their property.

3. (a) The authorities of the Forces shall at the request of the German authorities notify the latter of the arrest of any person for a criminal offence described in paragraph 1 of this article.

(b) The German authorities shall at the request of the authorities of the Forces notify the latter of the arrest of any person for a criminal offence described in paragraph 2 of this Article.

4. Trial of a member of the Forces for a criminal offence described in paragraph 1 of this Article, committed within the Federal territory, shall be held within that territory except in cases of military exigency. When military exigency requires that the trial of such an offence be held outside the Federal territory, the authorities of the Forces shall so inform the German authorities, with particulars of the time and place of trial. The German authorities shall be entitled to have observers present unless security considerations require otherwise and shall be informed of the result of the trial.

5. The German authorities and the authorities of the Forces shall extend mutual co-operation in the prosecution of criminal offences under paragraphs 1 and 2 of this Article. Unless security considerations require otherwise, they shall permit representatives of the appropriate authorities to attend the trial and, within the applicable regulations, grant them the opportunity to present their views on questions of law and fact. In addition to the cases provided under German criminal procedure, the Forces or their members shall also have the right to appear as co-prosecutors (*Nebenkläger*) before German courts, to the extent that the criminal offense is directed against the security or the property of the Forces or their members or is one of the offences listed in Annex A to the present Convention. On request the German authorities and the authorities of the Forces shall inform each other of an intent to initiate, to refrain from initiating or to discontinue a prosecution or disciplinary proceeding and of the decision.

Section II: Non-Criminal Proceedings

ARTICLE 9—*Jurisdiction and procedure in non-criminal proceedings.* 1. Subject to the provisions of the present Convention and any other applicable agreement, German courts and authorities shall exercise jurisdiction over members of the Forces in non-criminal proceedings.

2. Unless proceedings in non-criminal matters are commenced on the application of a member of the Forces, the German courts and authorities will serve upon the members concerned the written documents or court order whereby the proceedings are commenced even if such service is not required by German law and regulations.

3. The German courts and authorities shall grant members of the Forces sufficient opportunity to safeguard their rights. If a member of the Forces is unable because of official duties or authorised absence to protect his interests in a non-criminal proceedings in which he is a participant, the German court or authority shall at his request suspend the proceeding until the elimination of the disability, but for not more than six months. The existence of the disability shall be established (*glaubhaft machen*) by the member of the Forces. A certificate of the ground and duration of the disability issued by the appropriate authorities of the Power concerned shall be given due weight by the court of authority. The proceeding need not be suspended if the interests of the member of the Forces can adequately be protected by a person authorized to represent him before a court or other representative entitled to safeguard his rights.

4. The members of the Forces shall enjoy the same rights as Germans in respect to the rights to free judicial assistance (*Armenrecht*). They shall not be obligated to post security for costs of any kind in cases where Germans are free from such obligation. Certificates required to establish the right to free judicial assistance shall be issued by the appropriate consular authorities after they have made the necessary investigations.

ARTICLE 10—*Enforcement of judgments, decisions and orders.* 1. The authorities of the Forces shall, insofar as service regulations permit, take all appropriate measures to aid in the enforcement of judgments, decisions and orders (*vollstreckbare Titel*) of German courts and authorities in non-criminal proceedings.

2. If the enforcement of such judgment, decision or order is to be effected within an installation of the Forces, the German court or authority shall request the authority of the Forces responsible for the administration of the installation to enforce or permit the enforcement of the judgment, decision or order. The authorities of the Forces shall, if possible, comply with the request. The authorities of the Forces shall deliver to the appropriate German authority property taken by themselves for satisfaction of the judgment, decision or order.

3. Property of a member of the Forces which is certified by the appropriate authority of the Forces to be needed by him for the fulfilment of his official duties shall be free from seizure for the satisfaction of a judgment, decision or order, together with other property, tangible and intangible, which under German law is not subject thereto.

4. The personal liberty of a member of the Forces shall not be restricted by a German court or authority in a non-criminal proceeding, whether to enforce a judgment, decision or order, to compel an oath of disclosure, or for any other reason.

5. No payment due to a member of the Forces from his Government shall, except to the extent permitted by the laws and regulations of the Power concerned, be subject to any attachment, garnishment or other form of execution ordered by a German court or authority.

Section III: Provisions Common to Criminal and Non-Criminal Proceedings

ARTICLE 11—*Presence in court. Witnesses. Service of Process.* 1. The authorities of the Forces shall, unless military exigency requires otherwise, secure the attendance of members of the Forces whose presence is required by a German court or authority, provided that such appearance is compulsory under German law. If military exigency prevents such attendance, the authorities of the Forces shall furnish a certificate stating the basis and duration of such disability.

2. German courts and authorities shall, in accordance with the provisions of German law, secure the attendance of persons whose presence as witnesses or experts is required by a service tribunal or other authority of the Forces.

3. The provisions of paragraphs 1 and 2 of this Article shall apply *mutatis mutandis* to all proceedings requiring the production of evidence.

4. Subject to the provisions of the present Convention or any other applicable agreement, the privilege and immunities of witnesses and experts before German courts or authorities, and service tribunals or authorities of the Forces, shall be those accorded by the law of the court, tribunal or authority concerned. Appropriate consideration shall also be given to the privileges and immunities which the witness or expert would have before a German court if he is not a member of the Forces, or if he is a member of the Forces before a service tribunal of the Power concerned.

5. The authorities of the Forces shall permit, or themselves effect, the service of process upon any person inside an installation, and upon members of the Forces. In all other cases service shall be made or permitted by the appropriate German courts or authorities.

6. Service by German courts and authorities on members of the Forces shall not be effected by publication or advertisement.

ARTICLE 12—*Obstruction of justice.* Perjury, attempts to obstruct justice, any other criminal offenses and contempts, committed before or against a German court or authority or a service tribunal or authority of the Forces, and failure to comply with process duly served in accordance with Article 11 of the present Convention shall be dealt with by the court or authority having criminal jurisdiction or disciplinary authority over the person concerned, according to its own law, as if the act had been committed before or against its own courts or authorities.

ARTICLE 13—*Attorneys.* 1. Nationals of any Power concerned and German attorneys shall not be hindered from acting as defence counsel before service tribunals in accordance with the rules and regulations prescribed for such service tribunals.

2. A person admitted to practice as an attorney in the country of one of the Powers concerned may, in proceedings in which a member of the Forces is involved, in association with a German attorney who is authorized to represent the member of the Forces in such proceedings, appear before German courts to make statements (*Ausfuehrungen*).

3. Except as provided in paragraphs 1 and 2 of this Article, foreign nationals may act as legal consultants, and appear before German courts, in the Federal territory only in accordance with the provisions of German law.

ARTICLE 14—*Exclusion of public. Transfer of proceedings.* The provisions of Section 172 of the German Judicature Act on the exclusion of the public from hearings of criminal and non-criminal proceedings, and of Section 15 of the German Code of Criminal Procedure on the transfer of criminal proceedings to a court of a different district, shall be applied, *mutatis mutandis* in cases before German courts or authorities where there is a threat to the security of the Forces or their members.

ARTICLE 15.—*Disclosure of information.* 1. Subject to the provisions of paragraph 3 of this Article,

(a) no German court or authority shall, in any proceeding before it, require or allow any person to disclose information which would or might prejudice the

security of the Forces or the Power concerned, except with the consent of the appropriate authority of the Forces or the Power concerned;

(b) no court or authority of the Forces shall, in any proceeding before it, require or allow any person to disclose any German state or official secret, except with the consent of the appropriate German authority.

2. If during proceedings it appears that the disclosure of such information or secret might result, the court or the authority, unless it is decided to dispense with the disclosure, shall, before hearing or dealing with such information or secret, request a written decision of the appropriate authority as to whether the consent required by paragraph 1 of this Article will be given. The consent will not be refused if, under the terms of the present Convention or any other agreement between the parties, the giving of information to the appropriate courts or authorities is required.

3. The provisions of this Article shall not be applied in such a manner as to limit the constitutional rights of a party to a proceeding to testify or make a factual or legal statement on his own behalf.

ARTICLE 16—*Official acts.* 1. Whenever, in a criminal or non-criminal proceeding before a German court or authority, it becomes necessary to determine whether the act or omission which is the subject of the proceeding occurred in the performance by the person concerned of official duty for the Forces, the German court or authority shall suspend the proceeding and shall promptly notify the authorities of the Forces, stating the facts of the case. The appropriate authority of the Forces shall investigate the case and within twenty-one days after receipt of the notification transmit to the German court or authority a certificate describing the scope of the official duties of the person concerned at the relevant time and place. The certificate shall be signed by the highest ranking representative of the Forces having personal knowledge of the matter. The authorities of the Forces shall take appropriate measures to ensure that the certificate is compiled conscientiously as to form and content. After receipt of the certificate, but no later than twenty-one days after receipt by the authorities of the Forces of the notification, the proceeding shall be continued.

2. The authorities of the Forces may also submit such certificate to a German court or authority without having received a notification from such court or authority.

3. Such certificate shall be evidence only on the scope of official duties of the person concerned and shall be conclusive to this extent. The person who issued such certificate may, however, be called as a witness to explain or amplify its contents; and further, the provisions of this paragraph shall not be applied in such manner as to limit the constitutional rights of a party to a proceeding to testify or make a factual or legal statement on his own behalf. The German court or authority shall give to the fact that the act or omission constituted the performance of official duty such legal weight and effect as it is entitled to under German law.

4. The provisions of this Article shall not apply to cases under Article 8 of the Finance Convention.

PART THREE—ADMINISTRATION AND SUPPORT

Section I: Rights and Obligations

ARTICLE 17—*Movement*. 1. The Forces and their members shall be entitled to enter, move within the over and depart from the Federal territory with vehicles, vessels and aircraft owned or operated by them or on their behalf without restriction except as contained in the present Convention. The Federal Republic shall ensure to the Forces and their members the use of all German public highways and waterways, and the right to fly in the air space of the Federal territory and to depart from, land on and use the airfields at the disposal of the Forces. The Forces shall be entitled to such use of the air space and airfields in the Federal territory as may be necessary for the security of the Forces or for their training, provided that the use of civil airfields for training purposes shall be requested from the German authorities, such request having been approved by the highest Air Headquarters of the Forces concerned.

2. The operating rights of the German railways shall remain unaffected. Rolling stock owned, rented, or exclusively used by the Forces may be brought into, and taken out of, the Federal territory. It shall be accepted for movement by the Germany railways if it can be operated in general conformity with the traffic operating methods of the latter.

3. Unless otherwise provided in this Convention or in any other applicable agreement, German traffic laws, ordinances and regulations shall apply to the Forces and their members. Deviations from German traffic regulations shall be permissible to the Forces in cases of military exigency, with due regard to public safety and order. For railway traffic such deviations shall be permitted only by agreement between the Forces and the competent railway administration.

4. The vehicles, sea-going vessels and aircraft of the Forces or their members may be licensed or registered, and shall be provided with license plates or other identification as appropriate, by the authorities of the Forces. Subject to the international regulations applicable in each case, the same provisions shall apply to inland water craft of the Forces or their members, excluding craft owned by members of the Forces of 15 tons carrying capacity or over. In the case of licensing by German authorities, these authorities may collect the normal license fee, which shall not include any form of taxation. The authorities of the Power concerned shall take adequate safety measures for, and shall ensure the technical supervision of, the vehicles, vessels and aircraft licensed by them and shall, where necessary, and at the request of the German authority, furnish the name and address of the owner of a vehicle, aircraft or vessel licensed by them.

5. The Forces shall with regard to their vehicles be exempt from all German regulations limiting axle loads or the total weights of vehicles. Vehicles owned or operated by the Forces or by their members shall be exempt from German laws, regulations or police measures requiring changes or additions in the construction, design or equipment of vehicles, such as markings, warning signals, brakes, lighting and direction indicators.

6. Documents issued by the appropriate authorities of the Power concerned to a member of the Forces which authorize him to operate vehicles, sea-going vessels or aircraft shall be valid in the Federal territory. Authorization to operate inland water vessels licensed by the Forces shall be governed by regulations of the Forces, which shall take due account of German, and, where applicable, international waterway regulations.

7. Members of the Forces shall use or permit to be used in the Federal territory private vehicles and aircraft belonging to them only if such vehicles or aircraft are insured against liability arising out of such use. The required insurance coverage, both in type and amount, shall be determined in accordance with German law. This insurance may, however, be effected with any insurance enterprise entitled to carry on such activity in the territory of the Power concerned and able under the exchange control regulations, according to a declaration of the Power concerned, to pay claims in the Federal territory and in the currency of the Federal Republic.

8. A standing Commission shall be established, to be composed of representatives of the appropriate authorities of those of the Three Powers to which the provisions of this Article apply and of representatives of the authorities of the Federal Republic. The European Defence Community may be represented on this Commission. The duty of this Commission shall be to guarantee effective co-ordination between civil and military air activities.

9. All air traffic control and related communications systems developed and carried on by the Federal authorities and by the Forces shall be technically and administratively co-ordinated to the extent necessary to ensure air traffic safety and the common defence.

10. Permission for aerial photography by private individuals or civilian agencies, and the production and distribution of prints and negatives therefrom, shall be given by the German authorities, subject to security clearance by the authorities of the Forces. The methods of security clearance shall be determined by the Standing Commission.

ARTICLE 18—*Communications*. 1. The Forces shall have the right to establish and operate military post offices for the purpose of handling postal and telegraphic matter of the Forces and their members between themselves, with military post offices in other countries and with their home countries. Exchange offices between the military post offices and the Federal Post offices may be established. The location of these offices will be fixed in agreement between the competent authorities of the Federal Republic and of the Forces.

2. Furthermore, the Forces shall have the right to establish, operate and maintain their own communications (which include telecommunications and radio facilities), and broadcasting for the members of the Forces, within their installations and in their military vehicles, vessels and aircraft, insofar as they are required for military purposes.

3. Outside their installations the Forces shall normally use the German public telecommunications facilities. The Forces may, however, erect, operate and maintain communications facilities of their own outside their installations.

(a) so far as compellingly necessary on the basis of military security;

(b) so far and so long as the German authorities are not in a position to erect, or in understanding with the Forces forego the erection of, the necessary facilities;

(c) temporarily for military exercises.

The authorities of the Forces shall make use of the rights given them under the second sentence of this paragraph, in cases under sub-paragraph (a) only after appropriate consultation, and in cases under sub-paragraph (b) only in agreement, with the German authorities.

4. The facilities erected and operated by the Forces themselves may be inter-connected with the public network of the Federal Republic if they are technically and operationally compatible with it. The places of inter-connection shall be as mutually agreed.

5. The provisions contained in Annex B to the present Convention shall apply with respect to radio frequencies used by radio stations which are operated or used by the Forces. These provisions shall enter into force at the same time as the present Convention.

6. The members of the Forces may, without payment of a fee and without individual authorization, erect and use wireless receiving apparatus.

7. Complete control of the cables identified as FK-12 and FK-41 lying within the Federal territory, including the associated equipment, shall be exercised by the authorities of the Power concerned.

ARTICLE 19—*Manoeuvres and training exercises.* 1. The Forces shall have the right to conduct manoeuvres and other training exercises throughout the Federal territory. When such manoeuvres or other exercises are carried out outside their installations, the Forces shall inform the competent German authorities in good time before the commencement of such manoeuvres and exercises. Any administrative measures required for the satisfactory execution of such manoeuvres or exercises shall, upon request of the Forces, be taken by the German authorities after reasonable previous consultation; provided that the Forces may co-operate in the carrying out of such measures.

2. The administrative measures taken by the German authorities shall be sufficiently broad to permit the Forces themselves to take such particular measures as may be necessary to the achievement of the military aim of the manoeuvres or exercises.

ARTICLE 20—*Defensive works and measures.* 1. Installations and works directly serving the purpose of defence, as well as safety installations, shall be erected or adapted by the Federal Republic in such amounts, areas and types as are needed for the common defence. Where there is a special need for secrecy or security, the Forces themselves may erect or adapt such installations or works, provided that there is prior consultation with the Federal Government.

2. The Federal Government shall co-operate with the Forces in order to ensure that military and civil measures of protection necessary to meet special security requirements can be implemented by the Forces and the German authorities efficiently and without delay. It shall provide that the preparations necessary for

the implementation of such measures of protection will be done in time and in a sufficient amount.

3. Measures taken under this Article shall be subject to the jurisdiction of the Arbitration Tribunal referred to in Article 9 of the Convention on Relations between the Three Powers and the Federal Republic of Germany, provided that publicly or privately owned property has been or will be seriously damaged thereby. Article 12 of the Charter of the Arbitration Tribunal shall apply to such measures provided that irremediable damage may be caused thereby to substantial values.

ARTICLE 21—*Rights of the forces respecting installations.* 1. Within and over their installations, the authorities of the Forces may take all the measures necessary for the accomplishment of their mission, provided that they shall observe German regulations in the fields of public health and safety, unless their own regulations in such fields prescribe equal or higher standards. Insofar as their own regulations in the fields of public health and safety do not prescribe such standards, and also in other fields, the authorities of the Forces may, except as otherwise provided in this Convention or in any other applicable agreement, apply their own regulations, provided that in so doing they do not endanger public health, safety and order outside the installations. They shall notify the German authorities in good time of the extent to which they are departing from German regulations in the fields of public health and safety.

2. Where the authorities of the Forces do not themselves intend to implement within their installations applicable German regulations, they shall reach agreements with the competent German authorities which take into account equally military requirements and the requirements of the German administration.

3. Where buildings are partly occupied by (*im Besitz*) the Forces, the parts so occupied shall not be regarded as installations for the purposes of this Article if they are used as dwellings for members of the Forces.

4. The German authorities shall, upon request of the Forces, supervise or restrict in the vicinity of installations building activities and the movement of persons, animals, all types of vehicles, vessels, aircraft and balloons to the extent necessary, in the interest of common defense, for the effective operation of such installations and their security.

ARTICLE 22—*Installations, archives, documents, property and mail.* Installations, archives, documents and, subject to the provisions of paragraphs 2 and 3 of Article 7 of the present Convention, property of the Forces and also mail of the Forces recognizable as such, and mail of members of the Forces which is sent through the postal systems of the Forces shall be immune from entry, search, seizure and censorship by the German authorities unless in any cases or category of cases such immunity is waived by the authorities of the Forces.

ARTICLE 23—*Police of the Forces.* 1. The competent agencies of the Forces shall have the right to patrol on public ways, in places of public resort and on public transport in the Federal territory and to take action with respect to members of the Forces, in order to maintain order and discipline.

2. Their powers with respect to persons subject to German jurisdiction shall be determined in accordance with Article 7 of the present Convention.

ARTICLE 24—*Identification of members of the forces.* 1. The members of the Forces shall be provided by the appropriate authorities of the Power concerned with identity documents which shall indicate the name, date of birth and rank of the holder and shall bear a serial number and, unless the holder is in uniform, a photograph.

2. Dependents shall be designated as such in their identity documents.

3. Members of the Forces shall give proof of their identity upon the request of the competent German authorities.

4. Subject to the provisions of Article 25 of the present Convention, identity documents furnished in accordance with paragraph 1 of this Article shall constitute conclusive proof of identity.

5. When members of the Forces are travelling in groups under orders and military command, their uniforms shall be conclusive proof of identity.

6. When necessary, certification by the appropriate authorities of the Power concerned that a person is a member of the Forces within the definition of Article 1 of the present Convention shall be conclusive proof thereof.

ARTICLE 25—*Frontier and alien control.* 1. Members of the Forces, other than dependents, who properly identify themselves in accordance with Article 24 of the present Convention, shall be entitled to unrestricted entry into, and exit from, the Federal territory. Dependents shall be entitled to such entry and exit upon producing a valid passport indicating their status as such.

2. The authorities of the Power concerned may, at frontier points specified by them, participate in the control of travel documents of members of the Forces.

3. Members of the Forces shall not be subject to German legislation concerning the registration and control of aliens.

4. Members of the Forces shall not acquire the right to permanent residence or domicile in the Federal territory. If a person ceases to be a member of the Forces but remains in the Federal territory, the appropriate authorities of the Forces shall notify the German authorities as soon as possible. The general police provisions concerning aliens shall apply to such persons.

ARTICLE 26—*Entry and exit.* The German authorities shall co-operate with the authorities of the Three Powers, within the scope of the Basic Law and international agreements on travel, in preventing the entry into, or the exit from, the Federal territory of persons whose entry or departure is regarded by the authorities of any one or more of the Three Powers as prejudicial to the security of the Forces. For the purposes of German laws and regulations respecting entry into, and exit from, the Federal territory, the security of the Federal Republic shall be deemed to include the security of the Forces.

ARTICLE 27—*Extradition.* 1. The Power concerned shall decide on requests for extradition of members of the Forces.

2. The German authorities shall give written notification to the appropriate authorities of the Three Powers when they receive a request for extradition from

a Government other than that of one of the Three Powers, unless such extradition is prohibited by German law.

3. Within twenty-one days after receipt of notification under paragraph 2 of this Article, the authorities of any one or more of the Three Powers may notify the German authorities of their objection to such extradition on grounds of security.

4. If the German authorities nevertheless intended to grant such extradition, the matter shall be submitted for decision concerning the justification for the objections made under paragraph 3 of this Article to an arbitrator, who shall not be of the nationality of any of the parties to the disagreement or the extradition request and shall be appointed by the President or a Vice-President of the Arbitration Tribunal referred to in Article 9 of the Convention on Relations Between the Three Powers and the Federal Republic of Germany. His decision shall be binding on all parties and shall not be subject to review.

5. Until the period of twenty-one days under paragraph 3 of this Article has expired and until the disagreement has been decided by the arbitrator, the German authorities shall not carry out the extradition without the consent of the authorities of the objecting Power or Powers.

ARTICLE 28—*Right of presence in the Federal territory.* 1. The Power concerned shall have the exclusive right to remove members of the Forces from the Federal territory.

2. If the authorities of the Three Powers are of the opinion that the presence of a person in the Federal territory endangers their security, they may recommend that the German authorities take in respect of his presence such measures as are permitted by the Basic Law.

ARTICLE 29—*Bearing of arms.* 1. The authorities of the Forces shall have the right to prescribe the conditions under which persons employed in the service of the Forces may bear and use arms within an installation or so far as their duties necessitate the bearing of arms. The regulations about the use of arms shall conform to the German law on "self-defence" (*Notwehr*).

2. The persons referred to in paragraph 1 of this Article must be in possession of a firearms certificate issued by the authorities of the Forces. Firearms certificates may be issued only to persons against whose reliability there are no valid objections. A suitably endorsed identity card shall also be considered a firearms certificate.

ARTICLE 30—*Health and sanitation.* 1. The authorities of the Forces and the German authorities shall extend to each other the fullest co-operation in matters concerning health and sanitation, particularly with respect to the control of communicable diseases; such co-operation shall extend to the exchange of information and statistics.

2. In the vicinity of installations of the Forces the German authorities shall, at the request of the authorities of the Forces, take such health and sanitation measures as are necessary to protect the health of the Forces. When the German authorities are not in a position to take action adequate to meet military requirements with respect to the disposal of waste, insect and rodent control, or

water purification in areas outside cities, the Forces may themselves take such measures. Standards for the purification of water in cities where Forces are stationed will be agreed upon by the authorities of the Forces and the municipal authorities to guarantee a water supply free from contamination to the Forces.

ARTICLE 31—*Deaths and burials*. 1. Subject to the provisions of any special agreement, the authorities of the Forces shall have the right to establish and maintain cemeteries and to arrange for burial, disinterment and movement of the bodies of members of the Forces in compliance with adequate hygienic regulations to be determined by themselves.

2. The authorities of the Power concerned may take charge and dispose of the body of a member of the Forces who dies in the Federal territory, and may dispose of his personal property after the debts of the deceased person incurred in the Federal territory and owing to persons not members of the Forces have been settled. This provision shall not apply if the deceased person was ordinarily resident in the Federal territory.

ARTICLE 32—*Foreign currency*. 1. The authorities of the Power concerned shall have the right to import, export, possess and, subject to the provisions of paragraph 2 of this Article, distribute to the members of the Forces any non-German currency or instruments or scrip expressed in the currency of the Three Powers.

2. The authorities of the Power concerned may pay their members in instruments or scrip expressed in the currencies of the Power concerned, or in German currency, or in their own national currency; provided that they shall introduce a system of payment in their own national currency only after consultation with the Federal Government.

3. In order to avoid endangering German foreign exchange interests, the authorities of the Power concerned, in co-operation with the Federal Government, shall take appropriate measures against any abuse of the provisions of paragraphs 1 and 2 of this Article.

4. The members of the Forces shall not be subject to German foreign exchange legislation, provided that the authorities of the Forces in co-operation with the German authorities take appropriate measures, on the basis of the German foreign exchange legislation currently in force to safeguard German foreign exchange interests.

ARTICLE 33—*Taxation*. 1. (a) Goods which are subject to excise tax shall be exempt from the tax if they are procured by the Forces directly from a German manufacturer. This shall not apply to the excise taxes on tobacco, coffee, tea, sugar, alcohol, sparkling wines and gasoline, nor to the levy imposed on coal to subsidize coal miners' housing. The exemption shall apply only if the goods are procured by the official procurement agencies of the Forces for the use of, or consumption by, the Forces or their members.

(b) When procuring excisable goods on which exemption is claimed in accordance with sub-paragraph (a) of this paragraph, the Forces shall certify that the goods which shall be described exactly as to type and quantity, are intended for the exclusive use of, or consumption by, the Forces or their members.

(c) The treatment of the excise tax on beer shall be dealt with in a Special Agreement.

2. (a) Goods delivered to, and services for, the Forces which are procured by official procurement agencies of the Forces shall be exempt from the turnover tax, provided that such goods or services are for the use of, or consumption by, the Forces or their members. Suppliers shall exclude the turnover tax in the calculation of the price of such goods or services.

(b) Where, in the case of goods and services referred to in sub-paragraph (a) of this paragraph, payment is made in the currency of the Power concerned, the supplier shall, on application, be entitled to a refund of the turnover tax already paid on the goods to the extent of the export refund under paragraph 16 (2) of the Turnover Tax Law, in the version of 1 September 1951, as well as to the exemption accorded in sub-paragraph (a). Such refund shall be deducted from the price of the goods or services.

(c) Where the exemption from or refund of, the turnover tax is claimed under sub-paragraph (a) or (b) of this paragraph, the official procurement agency of the Forces shall certify to the seller that the goods or the service is for the exclusive use of, or consumption by, the Forces or their members.

(d) Deliveries to the Forces shall be deemed to be wholesale deliveries.

3. (a) The tax treatment of the Forces and their members shall be dealt with in a Special Agreement to the extent that provision is not made in the present Convention.

(b) The Federal Government undertakes to take all necessary measures to ensure that, until the Special Agreement referred to in sub-paragraph (a) of this paragraph enters into force, the Forces and their members shall be protected from suffering taxes for which exemption would be provided in that Agreement if it were to enter into force.

ARTICLE 34—*Customs treatment of the Forces.* 1. Subject to the provisions of the present Convention and of any other agreement between the Federal Republic and the Three Powers or any one of them, the Forces shall in principle be exempt from German customs legislation and control and German regulations governing the movement of property into or out of the Federal territory.

2. The Forces may bring into, and take out of, the Federal territory their property and property intended for their use or that of their members, without payment of any duties or other Federal taxes, and without restrictions or prohibitions. Goods purchased in the Federal territory by the Forces against payment in the currency of their country shall, for the purposes of this Article, be treated as exported from the Federal territory and imported by the Forces. The Forces shall observe German regulations designed to preserve the health of humans, animals, and plants.

3. The Forces shall issue official certificates of authorization in respect of their imports and exports. The form of these certificates shall be established in consultation with the Federal Government.

4. Consignments of the Forces carried in their official transport shall be subject to customs control by the authorities of the Forces. The latter shall ensure

the enforcement and adequacy of such control and the safe arrival of these consignments at destination. The authorities of the Forces shall inform the German customs authorities of the measures taken to implement the provisions of this paragraph.

5. Consignments of the Forces carried in transport other than their official transport shall be subject to normal German customs control but shall not be delayed thereby. However, consignments sealed by the authorities of the Forces or a customs administration shall be exempt from internal examinations; this provision shall not be deemed to prevent German customs officials from examining the seals and, if necessary, adding German seals. Discrepancies discovered as a result of these controls shall be notified to the authorities of the Forces.

6. Additionally to the exemptions contained in Article 35 official couriers of the Forces shall be exempt from control by German customs authorities with regard to their courier luggage. They shall be accorded preferential treatment to ensure that they are not delayed.

7. Military units moving operationally under orders across the frontiers of the Federal territory shall be exempt from control by German customs authorities, provided that the officer in charge declares in writing that all practicable measures have been taken to ensure that neither the unit nor the members thereof carry goods in contravention of the provisions of this Article or of Article 35 of the present Convention. If practicable, prior notification of troop movements shall be given to the appropriate German customs authorities by the authorities of the Forces. These provisions shall not apply to frontier crossings made during military exercises or manoeuvres.

8. Imports and exports of goods in aircraft owned or operated by the Forces or on their behalf which land at, or take off from, a military airfield shall be subject to customs control by the authorities of the Forces. If such aircraft land at a civil airfield, they shall be subject to customs control by the authorities of the Forces; the German customs authorities shall notify the authorities of the Forces without delay. If commercial aircraft land at a military airfield, the German customs administration shall be notified by the authorities of the Forces, which shall take all necessary measures to ensure that any goods carried shall not enter the German economy before the German customs authorities have had the opportunity to clear them.

9. With the exception of the property referred to in paragraph 11 of Article 39 of the present Convention, the authorities of the Forces may dispose of movable property of the Forces in the Federal territory. Property disposed of for export to a purchaser not resident in the Federal territory shall not be subject to German export restrictions or export duties. The conditions under which the property referred to in this paragraph is disposed of shall be the subject to mutual agreement between the appropriate authorities of the Forces and the appropriate German authorities.

ARTICLE 35—*Customs treatment of members of the Forces.* 1. Subject to the provisions of the present Convention and of any other applicable agreement be-

tween the Federal Republic and the Three Powers or any one of them, members of the Forces shall in principle be subject to German customs legislation.

2. The prosecution of customs violations, including the right of confiscation of goods, shall be solely within the criminal jurisdiction of the authorities of the Forces. The German procedure for administrative fines in respect of customs violations shall not apply to members of the Forces. German customs authorities shall have a right to goods confiscated by the Forces, as a result of customs violations by their members, to the extent necessary to recover tax debts on such goods due as the result of a civil action.

3. Members of the Forces shall be exempt from the provisions of German legislation covering the use of firearms by German customs officials.

4. Subject to the following provisions, members of the Forces shall be exempt from German import and export restrictions or prohibitions on imports and exports and from the payment of customs duties and other Federal taxes on goods moved by them for their personal or domestic use or consumption into, or out of, the Federal territory:

(a) The right of unaccompanied import by members of the Forces shall not apply to those rationed goods which the Forces sell or distribute to their members;

(b) The authorities of the Forces shall quantitatively restrict the import by their members in accompanied baggage of those rationed goods which they sell or distribute to their members;

(c) Accompanied and unaccompanied import of non-rationed goods shall be quantitatively restricted by the authorities of the Forces when they find, after considering the recommendations of the German authorities, that such goods are peculiarly the subject of customs violations;

(d) In order to certify to German customs authorities that non-rationed goods imported by members of the Forces through commercial channels, the German postal system, or in their accompanied baggage are for their personal or domestic use or consumption, the members of the Forces may obtain certificates from the authorities of the Forces, which shall be accepted as authorization to import in accordance with the terms of this Article;

(e) Members of the Forces shall observe German regulations designed to preserve the health of humans, animals and plants.

5. For the purpose of customs control of members of the Forces, the authorities of the Forces may provide officials at frontier crossing points at which substantial numbers of members of the Forces cross. The authorities of the Forces shall establish these points in consultation with the Federal Government. At these points, the officials of the Forces, in co-operation with German customs authorities, shall carry out customs control of members of the Forces and their property. At all other crossing points members of the Forces shall be subject to normal customs control by the German authorities. The provisions of this paragraph shall also apply to the movement of members of the Forces between the Federal territory and Berlin.

6. Customs control of goods consigned to and by members of the Forces through postal or freight systems of the Forces shall be exercised by the authorities of the Forces at points established by themselves. German customs officials may be present during these controls.

7. Goods imported duty-free under the provisions of the present Convention may be disposed of in the Federal territory by members of the Forces to a person other than a member of the Forces only on prior notification to, and with the approval of, the appropriate German authorities; this provision shall, however, not apply to customary gifts of a personal or domestic nature in noncommercial quantities.

8. The authorities of the Forces shall take, within the framework of the present Convention, appropriate measures to restrain their members from committing offences against the fiscal, customs, and import and export regulations of the Federal Republic. They shall consider these factors—the recommendations of the Federal Government being taken into account—in the rationing of goods peculiarly subject to such violations. The rations established by the authorities of the Forces shall not exceed the quantity reasonably required for personal consumption. The authorities of the Forces shall co-operate closely with German customs officials and law-enforcing agencies in combatting customs violations.

9. The authorities of the Forces shall notify German customs authorities of any violations to enable, if necessary, civil action to be taken against the violators. Similarly, the German customs authorities shall notify the authorities of the Forces of any customs violations involving their members. The German customs authorities shall notify the authorities of the Forces of property or currency seized from their members, and such property or currency shall be surrendered to the authorities of the Forces. Receipts shall be given by the German customs authorities to the members of the Forces for any property or currency detained.

10. Motor vehicles of members of the Forces which are intended for their personal use may enter and leave the Federal territory without payment of customs duties and without restrictions, on presentation of the registration certificate or other certificate issued by the authorities of the Forces certifying that the motor vehicle is owned by a member of the Forces and intended for his personal use. The authorities of the Forces shall, upon request by the German customs authorities, give information about such vehicles. Vehicles for commercial purposes shall be excluded from this preferential treatment.

11. The import of goods by members of the Forces for charitable disposal in the Federal territory shall be the subject of mutual agreement between the authorities of the Forces and the appropriate German authorities.

ARTICLE 36—*Organizations and enterprises serving the Forces.* 1. Subject to the provisions of this Article

(a) non-German organizations of a non-commercial character organized by the Forces or the Power concerned for the benefit of the members of the Forces, or which serve the welfare of the Forces, may be assimilated in whole or in part to the Forces, after notification to the German authorities, which notification shall state that such organizations are in the service of the Forces;

(*b*) if such organization is a club, it may be assimilated only to the extent that it is part of the catering or sports arrangements of the Forces.

2. The Forces may make use of non-German commercial enterprises provided that their military needs can not be satisfied by German enterprises. Such enterprises may be assimilated to the Forces

(*a*) after notification to the German authorities, if they provide technical services under contract for the Forces, and

(*b*) in all other cases after consultation with the German authorities.

3. Employees of the organizations mentioned in paragraph 1 of this Article and of the enterprises mentioned in sub-paragraph (*a*) of paragraph 2 of this Article (other than Germans, and persons who are nationals neither of one of the Three Powers nor of another Sending State and have been engaged in the Federal territory) may similarly be assimilated to members of the Forces.

4. Assimilation to the Forces and their members shall be permitted only so far as the organizations, enterprises or employees are exclusively serving the Forces and to the extent that such assimilation is necessary for their contribution to the accomplishment of the defence mission of the Forces. The extent of such assimilation shall be stated in the notification or during the consultation. It may be restricted through further understandings to the necessary measure. The organizations, enterprises and employees may not engage in private commercial activities. The authorities of the Forces shall co-operate with the Federal Government in taking appropriate measures against misuse of these rights.

5. Assimilation of commercial enterprises referred to in subparagraph (*b*) of paragraph 2 of this Article shall be limited to the following:

(*a*) Licensing and registering of motor vehicles in accordance with Article 17 of the present Convention;

(*b*) Accommodation in accordance with Article 38;

(*c*) The right, under Article 34, to bring into the Federal territory, free of customs duties and other Federal taxes, goods to be sold to the Forces or to be placed at the disposal of the Forces;

(*d*) Exemption from taxation under paragraphs 1 and 2 of Article 33 of the present Convention insofar as deliveries and other services by such undertakings to the Forces are concerned; in all other respects taxation shall be governed by the Special Agreement referred to in Article 33;

(*e*) Use of transportation and communication facilities of the Forces in accordance with Articles 17 and 18;

(*f*) Exemption, in respect to their services to the Forces, from German legislation on trade licensing and foreign companies;

(*g*) Issuance of the necessary foreign exchange permits to enable them to carry out their functions, and the right to possess and use military script.

6. If employees of the organizations and enterprises under paragraphs 1 and 2 of this Article are also members of the Forces as defined in sub-paragraph (*b*) of paragraph 7 of Article 1 of the present Convention, the Forces may limit the extent to which the provisions of the present Convention apply to such

employees. In this connection they shall take into consideration the recommendations of the German authorities.

7. The number of employees of the organizations and enterprises serving the Forces may not be increased by more than 100 per cent of the number present at the entry into force of the present Convention, except in agreement with the German authorities.

Section II: Support

ARTICLE 37—*Scope of obligations.* 1. So far as is necessary to fulfill the defence purposes of the Forces, the Federal Republic undertakes to ensure that the requirements of the Forces and their members within the Federal territory are satisfied, subject to the provisions of the present Convention, or any other related Convention, in the following fields:

- (a) Accommodation (Article 38);
- (b) Goods, materials and services, including public utilities (Articles 39 and 40;
- (c) Transport services (Article 41);
- (d) Communication services (Article 42);
- (e) Other public services (Article 43).

2. The Federal Republic shall ensure that such suitable civilian personnel as is necessary to meet the requirements of the Forces consistently with military needs will be made available to the Forces by the competent German agencies (Article 44).

3. In order to fulfill the obligations undertaken by the Federal Republic in paragraph 1 of this Article, the Federal Republic shall enact legislation adequate to assure the procurement of goods, materials and services, the provision of accommodation and the establishment of restricted areas.

4. Until the Federal legislation referred to in paragraph 3 of this Article enters into force, such obligations shall be fulfilled by the appropriate application, within the framework of the Basic Law, of the provisions of the following Laws so far as they deal with the power to requisition goods, materials, and services, to acquire accommodation and to establish restricted areas: the Law concerning Goods and Services for Reich Projects (*Reichsleistungsgesetz*) of 1 September 1939; the Law concerning the Provision of Land for the Purposes of the Wehrmacht of 29 March 1935; and the Law concerning the Restriction of Real Property for Reasons of Reich Defense (*Schutzbereichsgesetz*) of 24 January 1935. The application of the Reich laws referred to in the first sentence of this paragraph shall not extend to the computation of claims for remuneration and compensation, which shall be made pursuant to paragraph 3 of Article 12 of the Finance Convention.

ARTICLE 38—*Accommodation.* 1. The authorities of the Forces shall each present to the appropriate Federal authority their needs for accommodation in the form of periodical programmes and where necessary supplementary programmes. When the Forces of two or more Powers stationed or to be stationed in the same locality have competing requirements for accommodation, joint discussions will

be held between them with the object of reaching agreed accommodation programmes; this shall also apply to armed forces of the European Defence Community if the latter agrees to participate in this procedure. Individual requests outside the programmes shall be kept to a minimum.

2. Programmes and individual requests agreed by the authorities of the Forces and the Federal authority shall be carried out by the appropriate German authorities after consultation with the authorities of the Forces and with particular regard to sites, standards and dates of availability. In such programmes, specific provision shall be made to meet any difficulties which may arise for the Forces from the operation of the provisions contained in the second sentence of paragraph 5 of this Article. Requirements of minor importance may be arranged directly between the authorities of the Forces and the appropriate German regional authorities.

3. In case of disagreement between subordinate authorities of the Forces and the German regional authorities, the matter shall be referred to the Federal authority for further joint consultation with the authorities of the Forces.

4. The Forces shall continually review their accommodation requirements in order to ensure that these requirements remain within the minimum consistent with the size and duties of the Forces. Accommodation which is no longer required, or for which alternative accommodation satisfactory to the Forces is made available, shall be released by the Forces.

5. Special attention shall be paid to the release of accommodation to private individuals. Privately owned dwellings shall be released if they are not used by the Forces for any period of six consecutive months. The German authorities shall be entitled to make a request to the Forces that the release of specific accommodation be discussed with them.

6. At the time of the release of a requisitioned dwelling or hotel, all requisitioned movable property therein for which rental or hire is being paid shall also be released. When other requisitioned accommodation is released, the Forces will at the same time release requisitioned movable property therein for which rental or hire is being paid, except in cases in which the continued use of such property is requisite to the accomplishment of the Forces' defence mission. In such cases, the authorities of the Forces shall consult the German authorities. Such movable property shall also be released prior to the release accommodations provided that it is no longer required for use by the Forces or alternative property satisfactory to the Forces is made available by the German authorities. Objects of art, and antiques shall be released by the Forces according to procedures to be agreed.

7. In implementing the first accommodation programme, if no comparable alternative accommodation is available in the same area, the Forces shall, for six months after the entry into force of this Convention, be entitled to the first option on such publicly owned accommodation as becomes available under the provisions of Chapter Eleven of the Convention on the Settlement of Matters Arising out of the War and the Occupation. This shall not apply to accommodation in the Bonn Enclave.

8. If accommodation occupied by the Forces, such as target ranges, training areas and airfields, is temporarily not being used by the Forces, it may be made temporarily available to the Federal Republic at its request, on condition that its renewed use by the Forces is not impaired thereby.

ARTICLE 39—*Goods, materials and services.* 1. Procurement of goods and materials in the Federal territory for the Forces and their members against Deutsche Mark or other currencies shall be within periodical programmes, except that the quantities so procured may exceed the quantities settled in such programmes by not more than 10 per cent or by such larger quantity as may be agreed by the German authorities. These periodical programmes shall take into account building materials as required for the implementation of Article 40 of the present Convention. The programmes shall not include minor procurements made in accordance with the appropriate regulations of the Forces.

2. A Joint Supply Board shall be established, to be composed equally of representatives of the appropriate authorities of those of the Three Powers to which the provisions of this Article apply and of representatives of the Federal Republic. The European Defence Community may be represented on this Board. The Board shall be responsible for establishing by agreement periodical programmes for the procurement of the requirements of the Forces, and of the European Defence Community if it is represented, and for resolving any difficulties which may arise in the course of the implementation of these programmes.

3. The requirements of the Forces for inclusion in the periodical programmes shall be presented to the Joint Supply Board as early as possible and at least two months before the commencement of the period concerned. The authorities of the Forces shall notify the German authorities, as early as possible, in advance of any major changes in requirements for public utilities (gas, water, electricity, sewage).

4. In arriving at a programme, the Joint Supply Board shall take into account essential defence, export and civilian requirements. The Board shall determine and list goods, materials and services which are in short supply. The Board may require detailed classification of items which require significant quantities of goods, materials or services so listed.

5. The procurement of goods, materials and services, including building services, within the scope of paragraph 1 of this Article, shall be undertaken either directly by the authorities of the Power concerned in accordance with their normal contract procedure or, at their request, by the German authorities. The Federal Republic agrees to take appropriate measures to ensure that these requirements are accorded such priority over domestic and export non-defence requirements as is necessary and appropriate to ensure their timely supply to the Forces.

6. When the authorities of the Power concerned intend to place orders, within the agreed programmes, by direct procurement for goods, materials or services listed as being in short supply, they shall inform the German authorities. If the German authorities should find that, for reasons of supply or capacity, certain firms should be invited to bid, they shall nominate such firms

within two weeks at the latest. The authorities of the Power concerned shall take these recommendations into due account in arriving at a final choice of contractors.

7. Information copies of all orders placed directly by the authorities of the Power concerned within the agreed programmes shall be forwarded to the German authorities.

8. When the requirements of the Forces for goods, materials and services are satisfied through procurement by the German authorities, the authorities of the Power concerned shall be entitled to specify their requirements in all respects, including specifications, delivery periods and any other essential conditions. The German authorities, in co-operation with the authorities of the Power concerned, shall ensure that these conditions are met to the satisfaction of the Forces. The authorities of the Power concerned may reject any tender for goods and cogent reasons, of which the German authorities shall be informed. Control of manufacturing shall be carried out by the German authorities; representatives of the Power concerned are entitled to participate in inspection. The acceptance of the fulfillment of a contract shall be given to the contractor by the German authorities only with the written consent of the authorities of the Power concerned.

9. The Forces, subject to the provisions of paragraph 1 of this Article, and also members of the Forces, may purchase goods and services locally for their own use under conditions not less favourable than those obtaining generally for residents of the Federal Republic.

10. All periodical requirement programmes for goods, materials and services for the support of the Forces, which have been initiated by the authorities of the Power concerned before the date of entry into force of the present Convention and in respect of which requirements are still outstanding at that date, shall remain valid and shall have effect as programmes established by the Joint Supply Board.

11. Goods procured from Reichsmark or Deutsche Mark occupation cost or mandatory expenditures funds, or from that part of the defence contribution of the Federal Republic which serves to support the Forces, shall not be removed from the Federal territory except such as are required for military purposes for the support of the Forces, or unless it is such military equipment as is customary for military units to take with them on moving. Where the authorities of the Forces decide that they no longer require such goods, they shall be transferred to the German authorities, unless a different arrangement for the disposal of such goods is agreed between them.

ARTICLE 40—*Building services*. 1. When it has been agreed that a portion of the accommodation programmes submitted under Article 38 of the present Convention shall be met by new construction, the authorities of the Forces shall inform the appropriate German authorities, at intervals related to the programmes under Article 39, of their building programmes, furnishing if possible details of the character, extent, location and required completion date of construction for each project and, as far as becomes necessary, supplementary

details and alterations. The German authorities shall, without delay, communicate their comments to the authorities of the Forces. If necessary, joint consultation shall thereupon take place for the purpose of achieving an agreement which will enable the Forces to meet their defence mission.

2. The implementation of the building projects to be paid for from the German defence contribution shall be carried out by the German building authorities according to German legal provisions and established building regulations. The authorities of the Forces shall establish and notify to the German authorities their requirements as to specifications, shall participate in the planning, the invitation and opening of tenders and the letting of contracts and may reject any tender for good and cogent reasons, of which the German authorities shall be informed. The authorities of the Forces may inform themselves of the progress of the building operations at any time, inspect building records and demand information. The authorities of the Forces may at any time inspect the building operations but shall exercise supervision of the project through the German building authorities. Where the authorities of the Forces require subsequent deviation from contracts, their requirements shall be communicated to the German authorities in writing. The acceptance of the fulfillment of a contract shall be given to the contractor by the German authorities only with the written consent of the authorities of the Forces.

3. Repairs and maintenance shall be carried out by German authorities if requested by the authorities of the Forces in accordance with mutual agreements. The provisions of paragraph 2 of this Article shall apply *mutatis mutandis*.

4. This Article shall not apply to minor building projects, to building orders which have been placed before the entry into force of the present Convention or to building orders as to which special understandings have been reached. The definition of minor building projects shall be fixed by bilateral agreement.

ARTICLE 41—*Transport services*. 1. The Forces shall be entitled to use the German road, rail, water and air transport facilities for the transportation of persons, animals and materials into, throughout and from the Federal territory. In this respect the Forces shall enjoy such preferential treatment as is necessary for the satisfactory fulfillment of their defence mission and as is consistent with the reasonable reconciliation of the requirements resulting therefrom and the essential civilian and defence requirements of the Federal Republic. They shall be entitled to make contracts for transport services with transport undertakings.

2. Where the services required from public transport undertakings are in excess of those freely obtainable under generally applicable transport regulations, they shall be requested from the German authorities by the authorities of the Forces competent for transport matters for a major area. The same shall apply to transport services required from non-public transport undertakings, if these services are either in excess of routine services, or are required during periods of known short supply of transport as evidenced by restrictions placed on the furnishing of such transport services to the civilian economy. Details and procedure shall be regulated by special agreements.

3. The provisions of the following technical agreements and working arrangements, including documentation, between the Forces and the German transport authorities, as amended by mutual agreement, shall remain applicable until their dates of expiration:

(a) The three Tariff and Working Arrangements between the German Federal Railways and the United States, British and French Forces of 31 March 1950, 1 April 1950 and 1 September 1950 respectively;

(b) The two agreements between the United States and British Armies and the Deutsche Schlafwagen- und Speisewagen-Gesellschaft of 30 April 1950 and 19 December 1950 respectively;

(c) The agreements between the Allied Forces and the Vereinigte Tank-lager und Transportmittel G. m. b. H. and the Federal Ministries for Transport and Finance of 13 September 1951, 17 December 1951 and 27 February 1952.

The provisions of these agreements shall be subject to review and modification at the request of either the Federal Republic or the Three Powers prior to their termination dates where they are inconsistent with the present Convention. If any of these agreements is not renewed by mutual consent beyond its present period of validity, timely agreement shall be reached upon the respective conditions of service to be effective after its termination, which conditions shall be consistent with the needs of the Forces and the conditions of service of their members in the performance of the defence mission of the Forces.

4. The Forces shall give the German transport authorities as much advance notice of their military movements requirements as practicable.

5. The Forces shall, upon the entry into force of the present Convention, have the right to retain any transport facilities and equipment hitherto reserved for their use, subject to joint re-examination of such use under the principles of the present Convention.

6. Members of the Forces shall be entitled to use German transport facilities within the scope of the generally valid traffic regulations.

7. Where the existing transport facilities and equipment available are not sufficient to meet the requirements of the Forces, the German authorities shall, on request approved by the highest Headquarters of the Forces concerned, extend or modify existing facilities or equipment already available or construct new facilities or equipment to the extent required. Paragraph 4 of this Article shall apply *mutatis mutandis*.

8. The Forces shall be entitled to undertake the construction of transport facilities within their installations insofar as public safety and order outside such installations are not thereby prejudiced. Prior to the execution of such work appropriate consultations shall take place with the German authorities.

9. The Forces may conclude agreements with the highest appropriate Federal authority for the official use, by the authorities of the Forces responsible for the arrangement of military movements, of German specialised telecommunications systems, provided that such use does not prejudice the operation of those systems.

ARTICLE 42—*Communications services.* 1. The public services of the posts and telecommunications system of the Federal Republic shall be available to the Forces and their members. In this respect the Forces shall enjoy such preferential treatment as is necessary for the satisfactory fulfilment of their defence mission and is consistent with the reasonable reconciliation of the requirements resulting therefrom and the essential civilian and defence requirements of the Federal Republic. Until 30 June 1953 the conditions of service effective on the entry into force of the present Convention shall be applicable. These conditions of service shall be subject to review and modification at the request of either the Three Powers or the Federal Republic prior to 30 June 1953, where these conditions are inconsistent with the present Convention. Timely agreement shall be reached upon the conditions of service to be effective after 30 June 1953, which conditions shall be consistent with the needs of the Forces and the conditions of service of their members in the performance of the defence mission of the Forces.

2. Upon demand, the Forces shall receive for permanent or temporary purposes telecommunications circuits for their exclusive use under the conditions set forth in paragraph 1 of this Article.

3. In case the German public post and telecommunications facilities are not sufficient to meet the requirements of the Forces, the German authorities will, upon request by authorized representatives of the highest commanding officers of the Forces, enlarge the existing facilities or erect new facilities to the extent necessary. The Forces shall give the German authorities as much advance notice of these requirements as practicable. Such facilities shall be operated by the Federal Republic unless otherwise mutually agreed.

4. The provisions of Article 48 of the present Convention shall apply *mutatis mutandis* to communications facilities and equipment hitherto used by the Forces.

5. Communications facilities within Germany belonging to the Forces may be made available to the Federal Republic when such facilities are available as determined by the Forces. The conditions of service referred to in paragraph 1 of this Article shall apply *mutatis mutandis* to such facilities.

ARTICLE 43—*Other public services.* 1. The Forces and their members are entitled to use or receive German public and administrative services not specifically provided for elsewhere in the present Convention, to the extent required by the defense mission of the Forces or normally received by the residents of the Federal Republic.

2. The authorities of the Forces and the German authorities shall co-operate in the meteorological and cartographical fields in order to fulfil the defence requirements of the Forces.

ARTICLE 44—*Labour.* 1. The Forces shall notify the competent German authorities as soon as possible of their requirements for civilian personnel and shall normally obtain labour through these authorities. The services of the competent German authorities shall be made available to members of the Forces for obtaining suitable civilian labour.

2. Germans who are working in the service of the Forces shall be subject to all obligations arising from the membership of the Federal Republic in the European Defence Community. They shall only be engaged on services of a non-combatant character including civilian guard duties.

3. German labour law, as applicable to the Federal authorities, with the exception of tariff regulations, shall apply to work with the Forces except as otherwise provided in this Article. When necessary, a Mixed Commission, established under paragraph 10 of this Article, shall, at the request of the highest authorities of the Forces, examine whether and to what extent particular provisions of German labour law are inconsistent with the military needs of the Forces. The findings of this Commission shall be duly taken into account by the appropriate German authorities in accordance with Article 3 of the present Convention.

4. Work with the Forces shall not be deemed employment with the German public service.

5. The German authorities, in agreement with the authorities of the Forces, shall

(a) establish the terms and conditions of employment, including wages, salaries and job groupings (which shall serve as the basis for individual working agreements), and may conclude tariff agreements;

(b) regulate payment procedures.

6. The authorities of the Forces have, in connection with the labour referred to in this Article, the rights of engagements, placement, training, transfer with the consent of the worker, dismissal and acceptance of resignations.

7. The authorities of the Forces shall determine the number of jobs required and classify such jobs in accordance with the job groupings established under sub-paragraph (a) of paragraph 5 of this Article. The individuals to fill such jobs shall be provisionally classified by the authorities of the Forces into the appropriate wage and salary groups. The latter classification shall be subject to the approval of the competent German authorities. Such approval shall be deemed to have been given, unless the German authorities notify an objection within two weeks of the date of receipt of notification of the provisional classification. In such cases the appropriate classification shall be determined by consultation between the authorities of the Forces and the German authorities. The remuneration for the period covered by the provisional classification shall be paid according to the final classification. The worker shall be so informed at the time of the provisional classification.

8. Claims of individual workers arising out of work with the Forces shall be lodged against the Federal Republic. They shall be subject to German labour jurisdiction. However, in disputes arising out of dismissals on security grounds, a Mixed Commission, established under paragraph 10 of this Article, shall, upon request of the designated authorities of the Forces, determine whether the dismissal with or without notice was justified; the decision shall be binding on German labour courts. Such request shall be made without delay and at the latest within one month after notification to the authorities of the Forces of the

filing of the suit. The individual concerned shall be entitled to make a factual or legal statement before the Commission.

9. For the protection of their interests, those engaged on work with the Forces may set up Works Councils, whose task shall be to make suggestions and to present grievances or complaints to the appropriate authorities of the Forces. Such Councils shall be entitled to be heard by the appropriate authorities of the Forces. Grievances or complaints not resolved in this manner may be referred to the competent German authorities for further discussion with the authorities of the Forces.

10. The Mixed Commissions referred to in paragraphs 3 and 8 of this Article shall be composed equally of representatives of the appropriate authorities of those of the Three Powers to which the provisions of this Article apply and of representatives of the Federal Republic. They shall decide by majority vote; they shall establish their own rules of procedure, which may include provisions for action by sub-committees. If a Commission or sub-committee can not reach a decision by majority vote, the Power or Powers concerned and the Federal Republic shall appoint an individual who shall participate in the decision.

ARTICLE 45—*Civilian service units.* 1. The Forces shall have the right to maintain civilian service organizations consisting of non-German nationals.

2. The existing civilian service organizations consisting of Germans

(a) shall be disbanded in co-operation with the competent authorities of the Federal Republic not later than at the end of the two year period commencing on the entry into force of the present Convention. The Three Powers and the Federal Republic shall enter into discussions before the end of this period with a view to taking measures to ensure that the strength and effectiveness of the Forces shall not be impaired as a result of such disbandment;

(b) shall not be required to serve outside the Federal territory.

3. Article 44 of the present Convention shall apply except as otherwise provided in this Article.

4. Members of the civilian service organizations may receive housing and subsistence as a part of their remuneration. When at work they may be required to wear uniform working clothing appropriate.

5. The terms and conditions of employment, within the meaning of subparagraph (a) of paragraph 5 of Article 44 of the present Convention, in effect on the entry into force of the present Convention shall as soon as possible be reviewed and made broadly uniform by agreement between the authorities of the Forces and the German authorities.

6. The authorities of the Forces shall carry out the classification of the members of the civilian service organizations; they shall inform the appropriate German authorities of such classification and shall give due consideration to any suggestions for amendment made by the latter.

ARTICLE 46—*Hunting and fishing.* 1. The Federal Republic shall take such steps as lie within its competence in order to grant and have granted to the members of the Forces special hunting and fishing privileges on Federal lands. It

shall use its good offices with the Laender and all German authorities and political sub-divisions to do the same in respect to other public lands. In granting such special privileges the following general principles shall be observed.

2. The members of the Forces shall

(a) observe German regulations on hunting and fishing, in particular as regards proper hunting and fishing methods;

(b) comply with German game plans (*Abschussplaene*);

(c) for cloven-hoofed game (*Schalenwild*) always be accompanied by a licensed hunter or forester, for whose services reasonable fees shall be paid;

(d) pay a combined annual fee for hunting, the amount of such fee to be determined in agreement with the Federal or Land authorities as appropriate. Such fee shall be in place of all other applicable taxes, fees, charges and expenses. In fixing such fee, due regard shall be paid to the circumstances under which members of the Forces live in the Federal territory;

(e) in like manner pay a reasonable fee for fishing privileges.

3. The Forces shall have the right to issue hunting and fishing licenses but only to members of the Forces familiar with German hunting and fishing legislation, and, in the case of hunting, with the use of hunting weapons. The members of the Forces shall respect private property rights.

4. The Federal authorities shall take all measures within their power to stimulate voluntary arrangements with members of the Forces where private property rights are involved, and shall encourage invitations to the members of the Forces on the part of owners or lessees of private preserves or on the part of holders of corresponding rights.

5. Contracts pertaining to hunting and fishing rights in effect at the entry into force of the present Convention shall remain in force if such contracts have been freely made under German law and provide for payment of such rights at the then market price. All other rights relating to hunting and fishing heretofore requisitioned or reserved shall expire not later than one month after the entry into force of the present Convention.

6. The rights and obligations of the Forces in this field may be more closely defined in special agreements between the Forces and the Federal or the Land authorities.

ARTICLE 47—*Berlin*. 1. Goods, materials and services provided in accordance with the present Convention may be used or enjoyed by the armed Forces of any Power concerned, stationed in Berlin.

2. The Powers specified in paragraph 2 of Article 1 of the present Convention, which are members of the European Defence Community, shall enjoy the rights and assume the obligations referred to in paragraph 8 of Article 17, to the extent that the Standing Commission on coordination provided for in that Article deals with questions concerning air traffic to and from Berlin.

ARTICLE 48—*Continuation of existing support*. 1. Where goods, materials, services or accommodations have been requisitioned by the authorities of the Powers concerned or procured on occupation costs or mandatory expenditures

budgets before the date of entry into force of the present Convention and continue thereafter to be required by the Forces, they shall be deemed to be requisitioned with binding legal effect for a period of one year from that date under the provisions of the applicable legislation referred to in paragraphs 3 and 4 of Article 37 of the present Convention.

2. Where the goods, materials, services or accommodation are required for the purposes of the Forces and their members beyond the period fixed in paragraph 1 of this Article, the Federal Republic shall guarantee their continued availability in accordance with the procedure of the applicable Federal legislation.

PART FOUR—TRANSITIONAL AND FINAL PROVISIONS

ARTICLE 49—*Treaty establishing the European Defence Community*. The rights and obligations of the Signatory States under the present Convention shall be without prejudice to, and shall not be prejudiced by, the provisions of the Treaty Establishing the European Defence Community. Conflicts between the rights and obligations of the Signatory States under the present Convention and under the Treaty Establishing the European Defence Community shall be resolved by agreement between the Signatory States of the present Convention and of the Treaty Establishing the European Defence Community.

ARTICLE 50—*Transitional provisions for the Armed Forces of the European Defence Community*. 1. Pursuant to the provisions of Annex C to the present Convention, certain provisions of this Convention shall apply for a transitional period to the armed Forces stationed in the Federal territory of such of the Three Powers and such other Sending States as are members of the European Defence Community. The provisions of Annex C to the present Convention shall also apply to the armed Forces, other than those referred to above, which the European Defence Community shall send to the Federal territory during the transitional period referred to in that Annex.

2. The provisions of paragraph 1 of this Article shall not affect the application of the provisions of paragraph 3 of Article 3 and of Article 47 of the present Convention, which shall continue to apply to any of the Three Powers which may be a member of the European Defence Community.

ARTICLE 51—*Review*. Without prejudice to the provisions of Article 10 of the Convention on Relations between the Three Powers and the Federal Republic of Germany the present Convention may be reviewed at the request of one of the Signatory States at any time after two years after its entry into force.

IN FAITH WHEREOF the undersigned representatives duly authorized thereto by their respective Governments have signed the present Convention, being one of the related Conventions listed in Article 8 of the Convention on Relations between the Three Powers and the Federal Republic of Germany.

Done at Bonn this twenty-sixth day of May 1952 in three texts, in the English, French and German languages, all being equally authentic.

ANNEX A TO THE CONVENTION ON THE RIGHTS AND OBLIGATIONS OF FOREIGN FORCES AND THEIR MEMBERS IN THE FEDERAL REPUBLIC OF GERMANY

(Article 3, paragraph 3)

Penal Provisions for the Protection of the Three Powers, Their Forces and the Members of the Forces

TITLE I—TREASON IN MILITARY MATTERS

SECTION 1. 1. For the purpose of this Title, the term “military secrets” shall mean facts, objects, conclusions and discoveries, in particular writings, drawings, models or formulas, including codes, or information concerning them, which are kept secret out of consideration for the security of one of the Three Powers or of the Forces, as defined in Article 1 of the Convention on the Rights and Obligations of Foreign Forces and Their Members in the Federal Republic of Germany.

2. For the purpose of this Title, treason shall be deemed to be committed by anyone who willfully lets an unauthorised person have access to a military secret or makes such secret public and thereby endangers the security of one of the Three Powers or of the Forces.

SECTION 2. 1. Whoever betrays a military secret shall be punished by imprisonment with hard labour (*Zuchthaus*).

2. Whoever procures a military secret in order to betray it shall be punished by imprisonment with hard labour (*Zuchthaus*), not exceeding ten years.

3. Whoever, without authority, procures or attempts to procure a military secret or whoever, having otherwise without authority obtained possession of such secret, fails to report it forthwith to the competent authority of the Forces or, in the event that the secret is an object, fails to deliver it on demand shall be punishment by imprisonment.

4. Paragraph 3 of Section 100 of the Criminal Code, as amended by the Law of 30 August 1951 (*Bundesgesetzblatt Teil I Seite 739*), shall not apply to military secrets.

SECTION 3. 1. Whoever wilfully lets an unauthorized person have access to a military secret or makes it public and thereby, through negligence, endangers the security of one of the Three Powers or of the Forces shall be punished by imprisonment.

2. Whoever, through negligence, lets an unauthorized person have access to a military secret to which the offender had access by virtue of his office or position in the service, or by virtue of a commission received from an official agency and thereby endangers the security of one of the Three Powers or of the Forces shall be punished by imprisonment not exceeding two years. The offence shall be prosecuted only upon authorization of that Power concerned or of those Forces whose security has been endangered.

SECTION 4. 1. Whoever, with intent to prejudice the security of one of the Three Powers or of the Forces, procures, collects, publishes or communicates to another person information concerning military affairs of the Forces, or for such purpose operates an information service, or hires others to engage in, or support, such activities shall be punished by imprisonment. The attempt is punishable.

2. In especially serious cases, the penalty shall be imprisonment with hard labour (*Zuchthaus*) not exceeding five years.

SECTION 5. 1. Whoever, with intent to procure without authority a military secret, or to collect information on military matters for the purpose of prejudicing the security of one of the Three Powers or of the Forces (paragraph 2 and 3 of Section 2; Section 4) enters, or loiters in the vicinity of military installations, war vessels or aircraft of the Forces shall be punished with imprisonment.

2. The term "military installations" shall include, but not be limited to, areas restricted for security reasons by official notice and industrial establishments where supplies required for the Forces are produced, repaired or stored.

SECTION 6. Whoever, without permission of the competent authority, takes photographs within an area restricted for security reasons by official notice, takes photographs of a building in which arms or other supplies required for the Forces are produced or stored, or of any other military installation, make sketches of such objects, or puts such photographs or sketches into circulation shall be punished by imprisonment or a fine or both.

SECTION 7. 1. Whoever establishes or maintains stations the object of which is supplying information within the meaning of Sections 1 and 4 with a government, a party, any other association or an institution outside the Federal territory and Berlin (West), or with a person acting for such government, party, association or institution shall be punished with imprisonment.

2. Whoever, acting for a government, a party, any other association or an institution outside the Federal territory and Berlin (West), establishes relations of the type described in paragraph 1 of this Section with another person or maintains such relations shall be punished in like manner.

SECTION 8. 1. Whoever, with intent to cause or promote a war, an armed enterprise or measures of compulsion against one of the Three Powers or the Forces, establishes or maintains relations with a government, a party, any other association or an institution outside the Federal territory and Berlin (West), or with a person acting for such government, party, association or institution, shall be punished by imprisonment with hard labor (*Zuchthaus*).

2. If the offender acts with intent to cause or promote such other measures or plans of a government, a party, any other association or an institution outside the Federal territory and Berlin (West) as are designed to prejudice the security of one of the Three Powers or of the Forces, the penalty shall be imprisonment. The attempt is punishable.

3. Whoever, with intent to cause or promote one of the measures or plans specified in paragraphs 1 and 2 of this Section, makes or circulates untrue or grossly distorted statements of facts shall be punished by imprisonment. The attempt is punishable.

4. In especially serious cases under paragraph 1 of this Section the penalty may be imprisonment with hard labour (*Zuchthaus*) for life; in especially serious cases under paragraphs 2 and 3, the penalty may be imprisonment with hard labour (*Zuchthaus*).

SECTION 9. 1. For acts punishable under this Title there may be imposed:

In addition to the penalties under Section 2 and paragraph 1 of Section 8, a fine of unlimited amount;

In addition to the penalties under Sections 3, 4 and 7 and paragraphs 2 and 3 of Section 8, a fine;

In addition to imprisonment of not less than three months imposed for a wilfully committed offence, for the period of one to five years, incapacity to hold public office and the loss of the right to vote and to be elected as well as loss of rights acquired through public election;

In addition to imprisonment of any type imposed under Sections 2, 4, 5, 7 and 8, authorization to place the convicted person under police supervision.

2. Section 86 of the Criminal Code, as amended by the Law of 30 August 1951, shall apply *mutatis mutandis*.

TITLE II—SABOTAGE

SECTION 10. 1. Whoever wilfully damages, destroys, renders unserviceable or displaces military equipment of the Forces or an installation intended for defence within the meaning of Article 4 of the Convention on Relations between the Three Powers and the Federal Republic of Germany and thereby wilfully endangers the security of the Forces or their readiness for action shall be punished by imprisonment for not less than three months. In serious cases, imprisonment with hard labour (*Zuchthaus*) shall be imposed.

2. Whoever wilfully manufactures or delivers in a defective manner military equipment or a defence installation or raw material reserved for defence and thereby wilfully endangers the security of the Forces or their readiness for action shall be punished in like manner.

3. The attempt is punishable.

4. Whoever acts in a grossly negligent manner and thereby endangers negligently the security of the Forces or their readiness for action shall be punished by imprisonment.

SECTION 11. Whoever unlawfully obstructs or disturbs the Forces or individual members of the Forces in the exercise of their official duties and thereby wilfully endangers the security of the Forces or their readiness for action shall be punished by imprisonment, unless a more severe penalty is provided for the act by other provisions.

TITLE III—UNDERMINING THE WILLINGNESS TO SERVE AND THE DISCIPLINE OF THE FORCES

SECTION 12. 1. Whoever influences members of the Forces with intent to undermine their willingness to serve with the Forces shall be punished by imprisonment.

2. The attempt is punishable.

3. In especially serious cases, imprisonment with hard labour (*Zuchthaus*) not exceeding five years may be imposed.

SECTION 13. 1. Whoever induces a member of the Forces to desert or facilitates the desertion of a member of the Forces shall be punished by imprisonment for not less than three months.

2. The attempt is punishable.

3. In especially serious cases, imprisonment with hard labour (*Zuchthaus*) not exceeding five years may be imposed.

SECTION 14. Whoever solicits or incites a member of the Forces to disobey a superior shall be punished by imprisonment not exceeding two years.

TITLE IV—VILIFYING THE FORCES

SECTION 15. Whoever publicly vilifies the Forces or maliciously and deliberately exposes them to contempt shall be punished by imprisonment.

TITLE V—APPLICATION OF PROVISIONS OF THE GERMAN CRIMINAL CODE IN FAVOUR OF THE FORCES

SECTION 16. The following provisions of the Criminal Code shall apply *mutatis mutandis* in favour of the Forces:

(a) Sub-paragraph 2 of paragraph 1 and paragraph 2 of Section 96 to acts directed against the national symbols of the Forces;

(b) Sections 113, 115, and 116—to resistance, riot and unlawful assembly, if these offences are committed against the Forces, their soldiers, officials or such of their employees as were summoned to assist them;

(c) Section 115—to coercion committed against the Forces, their soldiers and officials;

(d) Sections 120, 121, 122b and 347—to acts against the detention of prisoners held by the Forces or committed upon their orders to an institution;

(e) Section 123 and 124—to trespass committed against the peace of the premises of the Forces which are assigned to public service and traffic;

(f) Section 132—to falsely impersonating a soldier or an official of the Forces and to unauthorized exercise of official functions of such persons;

(g) Section 333—to bribing soldiers or officials of the Forces or such of their employees as have been formally bound to conscientious fulfilment of their duties under general or special instructions of a superior authority.

ANNEX B TO THE CONVENTION ON THE RIGHTS AND OBLIGATIONS OF FOREIGN FORCES AND THEIR MEMBERS IN THE FEDERAL REPUBLIC OF GERMANY

(Article 18, paragraph 5)

Provisions on Radio Frequencies

1. For the purpose of these provisions

(a) the term “radio station” shall be determined by Article 1 of the Radio Regulations annexed to the International Telecommunication Convention, Atlantic City, 1947;

(b) “security frequencies” are those frequencies used solely by the Forces for military and related purposes, including broadcasts for members of the Forces, but not for propaganda purposes;

(c) “security bands” are those frequency areas of the radio spectrum used solely by the Forces for military and related purposes, including broadcasts for members of the Forces, but not for propaganda purposes;

(d) “mixed bands” are those frequency areas of the radio spectrum which are used by the Forces for military and related purposes, including broadcasts for members of the Forces, but not for propaganda purposes, and in which at the same time civil radio stations may be operated under specified conditions.

2. The radio stations of the Forces shall only be operated on the frequencies defined in sub-paragraphs (b) to (d) inclusive of paragraph 1 of these provisions and in conformity with the provisions of Article 47 of the International Telecommunications Convention, Atlantic City, 1947, or such provisions as may replace them.

3. A Frequency Committee is hereby established, to be composed of representatives of the appropriate authorities of those of the Three Powers to which the provisions of Article 18 of the present Convention apply and of representatives of the authorities of the Federal Republic. The European Defence Community may be represented on the Frequency Committee. The Frequency Committee shall make its decisions by unanimous vote.

4. Security frequencies, security bands and mixed bands, including the technical conditions to be fixed in the mixed bands pursuant to sub-paragraph (d) of paragraph 1 of these provisions, which are required for the radio stations of the Forces, and the modifications in the frequencies allocated or assigned to the Forces on the entry into force of the present Convention, shall be fixed by the Frequency Committee. The members of the Frequency Committee shall co-ordinate all frequency allocations as far as necessary to avoid harmful interference. Monitoring services shall be available to the Frequency Committee. Monitoring reports containing information on frequencies defined in sub-paragraphs (b) to (d) inclusive of paragraph 1 shall be transmitted to international bodies only as agreed by the Frequency Committee. Information on civil frequencies shall be available to the Frequency Committee. No frequency allocations will

be made and no operations permitted which shall interfere either with the frequency allocations in effect on the entry into force of the present Convention or with the frequency allocations made by the Frequency Committee in accordance with this paragraph.

5. If at international conferences problems are raised for which the Frequency Committee is competent, the German representatives shall take into adequate consideration the decisions, if any, made by the Frequency Committee and use all their influence to protect the frequency bands and frequencies which are within the competence of the Frequency Committee.

ANNEX C TO THE CONVENTION ON THE RIGHTS AND OBLIGATIONS OF FOREIGN FORCES AND THEIR MEMBERS IN THE FEDERAL REPUBLIC OF GERMANY

(Article 50 paragraph 1)

Transitional Provisions for the Armed Forces of the European Defence Community

As from the entry into force of the Treaty Establishing the European Defence Community, the Powers mentioned in paragraphs 2 and 3 of Article 1 of the present Convention which are members of the European Defence Community will assume, in the following manner, only those rights and obligations referred to below, which arise out of the present Convention and its Annexes:

(a) Until 31 March 1953, the rights and obligations arising out of Article 46;

(b) Until 30 June 1953, the rights and obligations arising out of paragraph 1, and to the extent that they deal with the satisfaction of the needs of the Forces paragraphs 2 and 4 of Article 3, paragraphs 1, 2 and 3 of Article 32, Article 33 to the extent that it deals with tax immunities of the Forces, and Articles 36, 37, 38, 39, 40, 41, 42, 44, 45 and 48.

(c) As a transitional measure, until a date to be fixed in each case in agreement with the Federal Republic, but not later than 30 June 1953, the rights and obligations arising out of Articles 4, 17, 18, 19, paragraphs 1 and 3 or Articles 20, 21, 34, 35 so far as it relates to transfers in the course of military service, and 43;

(d) Until the entry into force of Federal criminal legislation for the protection of the armed Forces of the European Defence Community, the rights and obligations arising out of paragraph 3 of Article 3, and Annex A.

4. Finance Convention, Bonn, 26 May 1952

NOT IN FORCE ON 1 APRIL 1954

The text of this Convention, not reproduced here, may be found in U. S. Senate Executives Q and R, 82d Congress, 2d session (2 June 1952), p. 135, and in British Parliamentary Papers, Germany No. 6 (1952), Cmd. 8571, p. 59. A detailed summary is given in 26 Department of State Bulletin (1952), p. 893. The principal provisions are indicated below; it should

be noted that certain transitional provisions were intended to run until 30 June 1953 (the end of the NATO fiscal year) and so are already out of date.

The Federal Republic is to contribute annually to the cost of Western defense, by financial contributions to the European Defense Community and to the support of non-EDC foreign forces stationed in the Federal Republic. After June 1953, the amount is to be determined by the same procedures and criteria as are used in NATO; the share of non-EDC forces is left to be settled by later agreement. The Three Powers undertake to keep defense expenditures from Deutschmark funds to an efficiently utilized minimum.

Foreign forces are to enjoy the free use of certain public services (as under the system in force in NATO countries): administrative assistance from German public agencies, use of roads, bridges, and navigable waters, police, public health, and fire protection services, military use of civil airfields, the use of certain classes of property, etc. Payments may be agreed upon for special services.

The Parties mutually waive claims for damage to government property by persons in their service acting in line of duty, and a joint procedure is created for private claims. The Federal Republic is to settle claims against Allied forces arising before the Convention enters into force.

Foreign forces are to pay for accommodation, goods, and services at prevailing rates, with the same deductions or benefits as for any other military users. In the fields of labor, requisitions, transport, and communications, rates are to be determined by agreement or by Federal legislation. Procedures for the disposal of property no longer needed by the forces are established.

A permanent Coordinating Committee is set up to help settle difficulties in carrying out the Convention. Review of the Convention may be initiated by any signatory. Subsidiary agreements may be concluded.

French, Belgian, and Luxembourg forces stationed in the Federal Republic were to have the same status as non-EDC forces until 30 June 1953.

A special agreement between the Federal Republic and the United Kingdom on damage claims procedure is annexed to the Convention; the procedure therein applies also to the forces of Belgium, Denmark, and Norway, which maintain token occupation forces in the British Zone.

For provisions concerning the entry into force of this Convention, see the headnote to the Convention on Relations.

5. Tax Agreements

(A) AGREEMENT ON THE TAX TREATMENT OF THE FORCES AND THEIR MEMBERS, BONN, 26 MAY 1952

NOT IN FORCE ON 1 APRIL 1954

This Agreement, although signed on the same day as the Convention on Relations, the Convention on Settlement, the Forces Convention, and the Finance Convention, and as a result of the same negotiations, does not enter into force automatically with them, but requires a separate ratification by the signatory States (Article 5, paragraph 1). However, it cannot enter into force until the entry into force of the Forces Convention (Article 5, paragraph 2).

The text is in U. S. Senate Executives Q and R, 82d Congress, 2d session (2 June 1952), p. 131, and in British Parliamentary Papers, Germany No. 7 (1952), Cmd. 8569.

THE UNITED STATES OF AMERICA, the UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND and the FRENCH REPUBLIC, of the one part, and the FEDERAL REPUBLIC OF GERMANY, of the other part, AGREE AS FOLLOWS:

ARTICLE I—*Tax treatment of the forces.* 1. The Forces (which expression in this Agreement shall have the meaning given in paragraph 5 of Article 1 of the

Convention on the Rights and Obligations of Foreign Forces and Their Members in the Federal Republic of Germany, hereinafter referred to as the "Forces Convention") shall be exempt from taxes which are levied in accordance with German taxation legislation in effect on the entry into force of the present Agreement, except as otherwise provided in the present Agreement.

2. Customs duties and other taxes on imports and exports of the Forces are dealt with in Article 34 of the Forces Convention; excise taxes on the purchase by the Forces of goods in the Federal Republic are dealt with in paragraph 1 and turnover tax on deliveries to, and services for, the Forces in paragraph 2 of Article 33 of that Convention.

3. Tax exemption in accordance with paragraph 1 of this Article shall not apply, to the extent that taxes are due as a result of commercial trading by the Forces in the German economy nor to property used for this purpose, nor shall it apply to the excise tax on goods manufactured by the Forces in Germany, to the tax on Bills of Exchange, or to the Transportation Tax.

4. The liability of the Forces to German taxes on the acquisition and ownership of real property shall be dealt with in a special agreement, in the event that the Forces in the future acquire real property.

5. The treatment of the Forces in respect of taxes which may be introduced after the entry into force of the present Agreement shall be the subject of special agreements.

ARTICLE 2—*Tax treatment of members of the forces.* 1. Subject to the provisions of this or any other applicable agreement between the Signatory States, "members of the Forces" (which expression in this Agreement shall have the meaning given in paragraph 7 of Article 1 of the Forces Convention) shall be liable to taxes levied in accordance with existing German taxation legislation provided, however, that this provision shall not deprive a member of the Forces of any benefits which exist by reason of an intergovernmental agreement with the Federal Republic and which he could otherwise claim.

2. If after the entry into force of the present Agreement any law is enacted in the Federal Republic concerning new direct taxes, or levies which have the effect of direct taxes, its application to members of the Forces shall be the subject of a special agreement between the Signatory States, which shall be concluded without delay.

3. For the basis of tax liability under German law

(a) a person shall not be deemed to have acquired residence or domicile in the Federal territory by reason of his presence as a member of the Forces therein. This shall not apply in respect of the insurance tax insofar as concerns the payment of an insurance premium to an insurer who has his normal place of business in the Federal territory. Further, the fact that no residence is established in the Federal territory shall not mean that members of the Forces are to be regarded as foreign purchasers for the purpose of the Turnover tax legislation;

(b) movable property, whatever its origin, situated in the Federal territory by reason of the presence of its owner as a member of the Forces, and intended for his personal or domestic use, shall be deemed not to be situated in

the Federal territory. In the case of motor vehicles, this provision shall apply only when they bear registration plates issued by the Forces.

4. Additionally to the exemption from taxation conferred by paragraph 3 of this Article, members of the Forces shall be exempt from all German taxes and levies on payments which they receive as remuneration for their official activities with the Forces in the Federal territory. Further, they shall enjoy the taxation benefits which are granted by German taxation legislation to military personnel.

ARTICLE 3—*Beer tax*. 1. Beer which is procured by the Forces directly from a German manufacturer shall be exempt from excise tax. The exemption from taxation shall apply only to purchases by the official procurement agencies of the Forces for consumption by the Forces or their members.

2. Beer which the Forces or their members bring into the Federal territory under the provision of Articles 34 and 35 of the Forces Convention shall be exempt from excise tax.

3. Whenever the Forces procure beer, they shall certify that the beer, which is to be described exactly as to type and quantity, is intended exclusively for consumption by the Forces or their members.

ARTICLE 4—*Tax treatment of organizations and enterprises serving the Forces*. 1. Except as may otherwise be provided in special agreements between the Signatory States, the tax exemptions contained in Articles 1 and 2 of the present Agreement shall apply to the organizations and enterprises, and their employees, referred to in Article 36 of the Forces Convention; provided, however, that they shall apply to the enterprises referred to in sub-paragraph (b) of paragraph 2 of that Article with the following exceptions:

- (a) taxation of their employees;
- (b) taxation on their income and profits;
- (c) taxation on their business property in the Federal territory.

2. The tax exemption contained in Article 3 of the present Agreement shall apply only to those organizations referred to in paragraph 1 or Article 36 of the Forces Convention whose service to the Forces includes the sale of beer to the members of the Forces.

ARTICLE 5—*Final provisions*. 1. The present Agreement shall be ratified or approved by the Signatory States in accordance with their respective constitutional procedures. The instruments of ratification shall be deposited by the Signatory States with the Government of the Federal Republic of Germany.

2. The present Agreement shall enter into force, as between each of the three powers individually, of the one part, and the Federal Republic, of the other part, on the date when the Instruments of Ratification of the two parties shall have been deposited in accordance with paragraph 1 of this Article, or on the date of entry into force of the Forces Convention if such date shall be later.

3. The present Agreement shall be applied, as to any other Sending State within the meaning of paragraph 3 of Article 1 of the Forces Convention, at the same time as it enters into force as to that one of the Three Powers which has been

named as the Power concerned in accordance with item (i) of sub-paragraph (b) of paragraph 4 of Article 1 of the Forces Convention.

4. The present Agreement shall be deposited in the archives of the Government of the Federal Republic of Germany, which will furnish each Signatory State with certified copies thereof and notify each State of the date of the entry into force of the present Agreement.

IN FAITH WHEREOF the undersigned representatives duly authorised thereto by their respective Governments have signed the present Agreement.

DONE at Bonn this 26th day of May 1952 in three texts, in the English, French and German languages, all being equally authentic.

(B) PROTOCOL CONFERRING UPON THE ARBITRATION TRIBUNAL JURISDICTION OVER DISPUTES ARISING UNDER AGREEMENT ON THE TAX TREATMENT OF THE FORCES AND THEIR MEMBERS SIGNED AT BONN ON 26TH MAY 1952—BONN, 26 JULY 1952

NOT IN FORCE ON 1 APRIL 1954

This Protocol, which will enter into force with the Agreement on the Tax Treatment of the Forces and their Members, was signed at Bonn on 26 July 1952. The text is from British Parliamentary Papers, Germany No. 12 (1952), Cmd. 8657.

The Governments of the United Kingdom of Great Britain and Northern Ireland, the United States of America and the French Republic, of the one part, and of the Federal Republic of Germany, of the other part, agree as follows:

ARTICLE 1. The Agreement on the Tax Treatment of the Forces and their Members between the United Kingdom of Great Britain and Northern Ireland, the United States of America and the French Republic, of the one part, and the Federal Republic of Germany, of the other part, signed at Bonn on 26th May, 1952 is hereby amended by the insertion of the following new Article 5, the Article entitled "Final Provisions" becoming Article 6:

"ARTICLE 5. *Jurisdiction of Arbitral Tribunal.* All disputes arising between the Three Powers and the Federal Republic under the provisions of the present Agreement, which the parties are not able to settle by negotiation, shall be subject to the jurisdiction of the Arbitration Tribunal established by Article 9 of the Convention on Relations between the Three Powers and the Federal Republic of Germany, signed at Bonn on 26th May, 1952, in the same manner and with the same effect as though the present Agreement were lisited in paragraph 1 of Article 8 of the Convention as a related Convention."

ARTICLE 2. The new Article 5 of the aforementioned Agreement, set out in Article 1 of the present Protocol, shall be deemed to have been included in that Agreement at the time of its signature.

ARTICLE 3. The present Protocol shall be deposited with the aforementioned Agreement in the Archives of the Government of the Federal Republic of Germany, which will furnish each Signatory Government with certified copies thereof.

In faith whereof, the undersigned representatives, duly authorised thereto, have signed the present Protocol.

DONE at Bonn this twenty-sixth day of July, 1952, in three texts, in the English, French and German languages, all being equally authentic.

6. Letters Forming Part of the Contractual Agreements, Bonn, 26 May 1952

NOT IN FORCE ON 1 APRIL 1954

At the time of signature of the four Bonn Conventions, agreements on a number of minor points were effected through diplomatic correspondence. The texts of these letters appear in U. S. Senate, Executives Q and R, 82d Congress, 2d session, 2 June 1952, pp. 151-165, and in British Parliamentary Papers, Germany No. 6 (1952), Cmd. 8571, and Miscellaneous No. 10 (1952), Cmd. 8570. In addition to the letters reproduced below, notes were exchanged on the following subjects:

The Three Powers, exercising their rights under Article 2 of the Convention on Relations, stated that they would require certain Control Council legislation not to be deprived of effect in the Federal territory. The Federal government replied that it considered this legislation the internal concern of the Council and not subject to German legislative authority.

The Three Powers confirmed that the exercise of their rights relating to Germany as a whole, reserved in Article 2 of the Convention on Relations, would not affect adversely the relations established by the four Conventions or permit the Three Powers to derogate from their undertakings therein. (Their rights under the same Article relating to Berlin were treated in a more elaborate manner.)

The Federal Government declared that it would apply certain provisions of the International Telecommunications Convention of 1947 (U. S. Treaties and Other International Acts Series 1901) so as not to interfere with radio communication facilities of the Three Powers operating on frequencies allotted by the Copenhagen Agreement of 1948. (In an additional protocol to the 1947 Convention, Germany was given the privilege to accede, in proper circumstances; the Federal Government does not consider itself generally bound by the Copenhagen Agreement.)

In connection with the Settlement Convention, Chapter 1, Article 2, the Three Powers transmitted an agreed list of treaties and international agreements made by occupation authorities on behalf of one or more of the Western occupation zones of Germany, rights and duties under which were to remain valid as if they had arisen under effective agreements concluded by the Federal Republic. The list, which distinguishes those agreements considered still to be in force, appears in British Parliamentary Papers, Germany No. 6 (1952), Cmd. 8571, pp. 144-172. In its acknowledgment, the Federal Government specified that nothing in this list or the assumption of the undertakings by the Federal Republic implied any recognition by the Federal Republic of the present status of the Saar; this was confirmed by the Three Powers.

In connection with the Settlement Convention, Chapter 3, Article 5, the Federal Government agreed to settle claims for taxes imposed by local authorities on certain representatives of claimants for internal restitution, which have hitherto enjoyed tax immunities.

In connection with the Settlement Convention, Chapter 10, Article 4, the Federal Government announced its willingness to negotiate a multilateral agreement to settle questions of private pre-war contracts and rights acquired under them but suggested that insurance contracts should be handled by bilateral negotiations.

In connection with the Forces Convention and the Tax Agreement attached to it (which does not enter into force with the Conventions, but becomes effective for the Powers individually in accordance with its own provisions), the Federal Government undertook to protect the Forces from taxes from which they are exempted in the Agreement, until the Agreement comes into force, or, if it does not come into force, to pay a corresponding sum.

In connection with the Finance Convention, the Three Powers transmitted clarifications of their understanding of a transitional provision for payment under Article 4, of payment procedure under Article 6, and of the proper attribution of payment charges under Articles 6 and 10. Confirmation was given by the Federal Republic in each case.

The correspondence on control of atomic weapons, civil aircraft, and the character of the European Defense Community Treaty as German domestic law is reproduced following this note.

All these agreements and declarations are dated 26 May 1952. Their entry into force is contingent upon that of the Conventions, and therefore upon that of the European Defense Community Treaty. The Foreign Ministers of the Three Powers, in a letter published with the Conventions, informed the Federal Chancellor that after the Conventions had been ratified by all the Parties, if there were any delay by other Powers in ratifying the European Defense Community Treaty, the Three Powers would be prepared to consider whether certain provisions of the Conventions might be put into effect before the Conventions themselves enter into force.

The Federal Chancellor to the Secretary of State (Translation)

May 27, 1952

Mr. SECRETARY:

In the name of the Government of the Federal Republic of Germany, I have the honor to inform you of the following:

As no effective control of atomic weapons can be accomplished without the overall control of the atomic energy field, the Federal Government undertakes to maintain controls in this field beyond production of such weapons. Therefore, the Federal Government will, by legislation, prohibit:

(a) the development, production and possession of atomic weapons as defined in Annex II to Article 107 of the European Defense Community Treaty;

(b) the import or production, by whatever process, of nuclear fuel in quantities exceeding 500 grams in any one year for the whole of the Federal Republic;

(c) the development, construction or possession of nuclear reactors or other instruments or installations capable either of producing atomic weapons or of producing nuclear fuel in quantities exceeding 500 grams in any one year for the whole of the Federal Republic, the capability of producing 500 grams of nuclear reactor as corresponding to a heat output equivalent of 1.5 megawatts;

(d) the production or import in the whole of the Federal Republic or uranium in any chemical form in quantities greater than nine tons of uranium element equivalent per year. During an interim period, however, the Federal Republic is entitled to produce a quantity of uranium not to exceed thirty tons of uranium element equivalent for the initial requirements of a reactor;

(e) the storage of uranium in any chemical form other than in non-processed ores in quantities exceeding eighteen tons of uranium element equivalent in the whole of the Federal Republic, in addition to the initial reactor requirements.

The Federal Republic will by legislation comparable to that in force in your countries, control:

(a) the export from the Federal Republic of all articles and products useful in the development of atomic energy in accordance with a list to be mutually agreed amongst the four countries, and

(b) activities including export and import with respect to uranium, thorium and materials containing uranium and thorium.

The Federal Republic will also take all necessary steps to ensure that information of a security nature in the field of atomic energy is not divulged to unauthorized persons.

The Federal Republic understands that your Governments are agreeable to reviewing the limitation stated above on the production and acquisition of nuclear fuel at the end of a period of two years from the date of entry into force of the Conventions signed between your Governments and mine on 26 May 1952.

I take this occasion, Mr. Secretary, to assure you of my highest consideration.

ADENAUER

The Secretary of State to the Federal Chancellor

May 27, 1952

I have the honor to acknowledge receipt of your letter of May 27, 1952 which reads in translation as follows:

[Text of foregoing note repeated]

The Government of the United States has taken note of these assurances with satisfaction.

Sincerely,

DEAN ACHESON

The Federal Chancellor to the Secretary of State (Translation)

May 27, 1952

Mr. SECRETARY:

In the name of the Government of the Federal Republic of Germany, I have the honor to inform you of the following:

In respect to civil aircraft, none are being produced in the Federal Republic at the present time, nor are there any facilities available for such production. The Government of the Federal Republic intends to purchase from other countries such civil aircraft as may be required in Germany. If in the future conditions should change, the Federal Republic will seek agreement on this matter with the Governments of the United States, United Kingdom and France in the light of the situation then prevailing.

I like this occasion, Mr. Secretary, to assure you of my highest consideration.

ADENAUER

The Secretary of State to the Federal Chancellor

May 27, 1952

DEAR MR. CHANCELLOR:

I have the honor to acknowledge receipt of your letter of May 27, 1952 which reads in translation as follows:

[Text of foregoing note repeated]

The Government of the United States has taken note of these assurances with satisfaction.

Sincerely,

DEAN ACHESON

The Federal Chancellor to the Secretary of State (Translation)

May 27, 1952

MR. SECRETARY:

In the name of the Government of the Federal Republic of Germany, I have the honor to inform you of the following:

Upon ratification of the Treaty establishing the European Defence Community the content of the Treaty will become German domestic law. This accordingly applies likewise in regard to the provisions concerning the limitation of armaments production in the member states of the European Defence Community. The prohibitions laid down also have effect as regards the United Kingdom and the United States.

I like this occasion, Mr. Secretary, to assure you of my highest consideration.

ADENAUER

The Secretary of State to the Federal Chancellor

May 27, 1952

DEAR MR. CHANCELLOR:

I have the honor to acknowledge receipt of your letter of May 27, 1952 which reads in translation as follows:

[Text of foregoing note repeated]

The Government of the United States has taken note of these assurances with satisfaction.

Sincerely,

DEAN ACHESON

7. Documents Concerning Berlin

Much useful documentation on Berlin, including the blockade crisis of 1948-1949, may be found in Germany 1947-1949, *The Story in Documents*, U. S. Department of State Publication 3556 (1950).

Under the occupation, Berlin was governed by a four-power Allied Kommandatura until 1 July 1948, when the Soviet authorities withdrew, setting up a separate Municipal Government in their sector (East Berlin) on 30 November 1948. West Berlin continued under a tripartite Kommandatura of United States, British and French military governors.

In a letter of 12 May 1949, giving their approval to the Basic Law for the Federal Republic of Germany (Bonn Constitution), the Military Governors of the Three Powers made (in paragraph 4) the reservation that they interpreted the effect of Articles 23 (a list of the *Laender*) and 144 (2) (on representation of the *Laender*) of the Basic Law as accepting that, while Berlin might not be accorded voting membership in the Bundestag or Bundesrat nor be governed by the Federation, it might nevertheless designate representatives to attend meetings of those legislative bodies (U. S. Department of State Publication 3556 (1950), p. 279).

On 14 May, the three Western Military Governors issued a Statement of Principles governing the Relationship between the Allied Kommandatura and Greater Berlin, extending to Berlin (then operating under a temporary constitution of 1946), as far as possible, the same measures as would be enjoyed by the Federal Republic under the Occupation Statute, which was proclaimed 21 September 1949. See U. S. Department of State Publication 3556 (1950), p. 323.

A Constitution went into force for Berlin on 1 October 1950; certain reservations to this instrument were made by the Allied Kommandatura on 29 August 1951. Berlin is also bound by the First Instrument of Revision to the Statement of Principles and the Occupation Statute, dated 7 March 1951.

The documents in the present section consist of a Declaration by the Allied Kommandatura and a letter to the Chancellor of the Federal Republic from the Allied High Commissioners, both dated 26 May 1952, the day on which the four Bonn Conventions were signed. See also the Declaration of the Federal Republic on Aid to Berlin (Annex A of the Convention on Relations), and the Guarantees contained in the Tripartite Declaration of 27 May 1952 which repeat and supersede the assurances made in a declaration by the three Governments on 19 September 1950 in New York, to the effect that they would treat an attack on Berlin from any quarter as an attack on their forces and themselves.

(a) DECLARATION ON BERLIN—BERLIN, 26 MAY 1952

NOT IN FORCE ON 1 APRIL 1954

The text of the declaration is from British Parliamentary Papers, Germany No. 5 (1952), Cmd. 8564. It will go into force with the Convention on Relations.

Taking into consideration the new relations established between France, the United Kingdom of Great Britain and Northern Ireland, the United States of America, and the Federal Republic of Germany, and

wishing to grant the Berlin authorities the maximum liberty compatible with the special situation of Berlin,

the Allied *Kommandatura* makes this declaration:

I. Berlin shall exercise all its rights, powers and responsibilities set forth in its Constitution as adopted in 1950 subject only to the reservations made by the Allied *Kommandatura* on 29th August 1951, and to the provisions hereinafter.

II. The Allied authorities retain the right to take, if they deem it necessary, such measures as may be required to fulfil their international obligations, to ensure public order and to maintain the status and security of Berlin and its economy, trade and communications.

III. The Allied authorities will normally exercise powers only in the following fields:

- (a) Security, interests and immunities of the Allied Forces, including their representatives, dependents and non-German employees. German employees of the Allied Forces enjoy immunity from German jurisdiction only in matters arising out of or in the course of performance of duties or services with the Allied Forces;
- (b) Disarmament and demilitarisation, including related fields of scientific research, civil aviation, and prohibitions and restrictions on industry in relation to the foregoing;
- (c) Relations of Berlin with authorities abroad. However, the Allied *Kommandatura* will permit the Berlin authorities to assure the representation abroad of the interests of Berlin and of its inhabitants by suitable arrangements;
- (d) Satisfaction of occupation costs. These costs will be fixed after consultation with the appropriate German authorities and at the lowest level consistent with maintaining the security of Berlin and of the Allied Forces located there;
- (e) Authority over the Berlin police to the extent necessary to ensure the security of Berlin.

IV. The Allied *Kommandatura* will not, subject to Articles I and II of this Declaration, raise any objection to the adoption by Berlin under an appropriate procedure authorized by the Allied *Kommandatura* of the same legislation as that of the Federal Republic, in particular regarding currency, credit and foreign exchange, nationality, passports, emigration and immigration, extradition, the unification of the customs and trade area, trade and navigation agreements, freedom of movement of goods, and foreign trade and payments arrangements.

V. In the following fields:

- (a) restitution, reparations, decartelisation, deconcentration, foreign interests in Berlin, claims against Berlin or its inhabitants,
- (b) displaced persons and the admission of refugees,
- (c) control of the care and treatment in German prisons of persons charged before or sentenced by Allied courts or tribunals; over the carrying out of sentences imposed on them and over questions of amnesty, pardon or release in relation to them,

the Allied authorities will in future only intervene to an extent consistent with, or if the Berlin authorities act inconsistently with, the principles which form the basis of the new relations between France, the United Kingdom and the United States on the one part and the Federal Republic of Germany on the other, or with the Allied legislation in force in Berlin.

VI. All legislation of the Allied authorities will remain in force until repealed, amended or deprived of effect.

The Allied authorities will repeal, amend or deprive of effect any legislation which they deem no longer appropriate in the light of this declaration.

Legislation of the Allied authorities may also be repealed or amended by Berlin legislation: but such repeal or amendment shall require the approval of the Allied authorities before coming into force.

VII. Berlin legislation shall come into force in accordance with the provisions of the Berlin Constitution. In case of inconsistency with Allied legislation, or with other measures of the Allied authorities, or with the rights of the repeal or annulment by the Allied *Kommandatura*.

VIII. In order to enable them to fulfil their obligations under this declaration, the Allied authorities shall have the right to request and obtain such information and statistics as they deem necessary.

IX. The Allied *Kommandatura* will modify the provisions of this declaration as the situation in Berlin permits.

X. Upon the effective date of this declaration the State of Principles Governing the Relationship Between the Allied *Kommandatura* and Greater Berlin of 14th May 1949, as modified by the First Instrument of Revision, dated 7th March 1951, will be repealed.

(b) LETTER OF 26 MAY 1952

The text is from U. S. Senate Executives Q and R, 82d Congress, 2d session (2 June), p. 154.

The Allied High Commissioners to the Federal Chancellor

26 May 1952

Mr. CHANCELLOR:

As we have already advised you during our discussions on the Conventions between the Three Powers and the Federal Republic which have been signed today, the reservation made on 12 May 1949 by the Military Governors concerning Articles 23 and 144 (2) of the Basic Law will, owing to the international situation, be formally maintained by the Three Powers in the exercise of their right relating to Berlin after the entry into force of those Conventions.

The Three Powers wish to state in this connection that they are nonetheless conscious of the necessity for the Federal Republic to furnish aid to Berlin and of the advantages involved in the adoption by Berlin of policies similar to those of the Federation.

For this reason they have decided to exercise their right relating to Berlin in such a way as to facilitate the carrying out by the Federal Republic of its declaration attached to the Convention on Relations between the Three Powers and the Federal Republic and to permit the Federal authorities to ensure representation of Berlin and of the Berlin population outside of Berlin.

Similarly, they will have no objections if, in accordance with an appropriate procedure authorized by the Allied *Kommandatura*, Berlin adopts the same legislation as that of the Federal Republic, in particular regarding currency, credit and foreign exchange, nationality, passports, emigration and immigration, extradition, the unification of the customs and trade area, trade and navigation

agreements, freedom of movement of goods, and foreign trade and payments arrangements.

In view of the declaration of the Federal Republic concerning material aid to Berlin and the charge on the Federal budget of the occupation costs of the Three Powers in Berlin in accordance with the provisions of existing legislation, the Three Powers will be prepared to consult with the Federal Government prior to their establishment of their Berlin occupation cost budgets. It is their intention to fix such costs at the lowest level consistent with maintaining the security of Berlin and of the Allied Forces located there.

II. DEFENSE AGREEMENTS

A. THE NORTH ATLANTIC TREATY ORGANIZATION (NATO)

The North Atlantic Treaty Organization was established in November 1949 in accordance with provisions of the North Atlantic Treaty of 4 April 1949, details concerning which are given in the next note. Its purpose is to provide a machinery for coordinating the individual and collective self-defense of the members, for the preservation of peace and security in the North Atlantic area. It has taken over the military functions of the "Western Union" organization set up by the Brussels Treaty of 17 March 1948. Its structure has been revised several times during its growth, and is at present based on a general reorganization which went into effect in April 1952 as a result of decisions reached at a meeting of the North Atlantic Council in February of that year, at Lisbon.

The principal body of the Organization is the North Atlantic Council, which now incorporates the Defense Committee also mentioned in Article 9 of the Treaty. It consists of permanent representatives from all member countries, sitting in permanent session, but representation by cabinet ministers or head of governments is possible when appropriate, and ministerial meetings of the Council are to be held three times a year. The representatives are assisted by national delegations of advisers and experts.

The Secretariat, which is international, provides staff assistance to the Council and its Committees. The Secretary General is the vice-chairman of the Council, and presides in the absence of the Chairman, whose office is rotated annually in English alphabetical order among the Foreign Ministers of the Treaty members.

The permanent headquarters of the Organization are in Paris, and all civilian offices have now been brought to this area. The Council continues to direct the activities of the North Atlantic Planning Board for Ocean Shipping and the Petroleum Planning Committee. The functions previously discharged by the Council Deputies, the Financial and Economic Board (FEB), and the Defense production Board (DPB), have been assumed by the Council. Because of the power of the Council to set up permanent or temporary committees, the Organization possesses considerable flexibility, and adjustments to the current situation are made frequently.

The military bodies of the North Atlantic Treaty Organization consist of (1) the Military Committee, composed of the Chiefs of Staff of the member countries or their representatives, meeting periodically to develop measures for the unified defense of the area and frame general policy; (2) the Standing Group of military representatives of the United States, the United Kingdom, and France, which is in permanent session in Washington as the executive arm of the Military Committee; and (3) the Military Representatives Committee, which provides permanent military representation at Washington for the remaining eleven members of the Organization.

There are two major military commands, Supreme Allied Commander, Europe (SACEUR), with headquarters near Paris—Supreme Headquarters Allied Powers, Europe (SHAPE); and Supreme Allied Commander, Atlantic (SACLANT), with headquarters at Norfolk, Virginia. There are northern, central, and southern subordinate commands in the SHAPE area. There is also a Regional Planning Group for Canada and the United States, and a Channel and Southern North Sea Command has been agreed upon.

No NATO body can make decisions binding on member countries; their function is one of coordination. The members have agreed that an armed attack against one is an attack against all, and that individual or concerted action may be taken in defense of the area. The Organi-

zation maintains close relations with the Organization for European Economic Cooperation, and will also be closely coordinated with the European Defense Community, as is shown by documents reproduced in this volume.

1. North Atlantic Treaty, Washington, 4 April 1949

This Treaty, which has been implemented by the establishment of the North Atlantic Treaty Organization, is a regional arrangement of the type contemplated in Article 51 of the Charter of the United Nations, and virtually replaces the "Western Union" (Brussels) Treaty of 17 March 1948. On 28 April 1948, suggestions for a "security league" of this character were put forward by the Canadian Secretary of State for External Affairs. On 11 June 1948, the United States Senate adopted the Vandenberg Resolution (S. Res. 239, 80th Congress, 2d session), calling for United States participation in regional arrangements for purposes of individual and collective self-defense, under the United Nations Charter (U. S. Congressional Record, vol. 94, part 6, p. 7791). Discussions on a treaty of mutual assistance for the North Atlantic area were opened in Washington in July 1948, between the United States, Canada, and the Western Union countries (the United Kingdom, France, Belgium, the Netherlands, and Luxembourg). Norway, Denmark, Iceland, Portugal, and Italy were later included in the formal negotiations. The Treaty was signed in Washington on 4 April 1949.

Instruments of ratification were deposited with the Government of the United States of America, in accordance with Article 11 of the Treaty, by Canada on 3 May 1949, the United Kingdom on 7 June, Belgium on 16 June, Luxembourg on 27 June, Norway on 8 July, the United States on 25 July, Iceland on 1 August, the Netherlands on 12 August, and Denmark, France, Italy and Portugal all on 24 August. The Treaty thus entered into force on 24 August 1949. On 18 February 1952, Greece and Turkey became parties to the Treaty.

The Treaty is of indefinite duration, but after 20 years a party may withdraw upon a year's notice of denunciation. On 27 May 1952, the signatories to the Treaty establishing the European Defense Community expressed the formal hope that the provisions concerning the duration of the North Atlantic Treaty would be revised to correspond with those of the European Defense Community Treaty.

The text of the Treaty is from U. S. Treaties and Other International Acts Series 1964; it also appears in 34 United Nations Treaty Series, p. 243. It was reproduced in International Law Documents 1948-1949, p. 52, but is reprinted here for convenience of reference.

The parties to this Treaty reaffirm their faith in the purposes and principles of the Charter of the United Nations and their desire to live in peace with all peoples and all governments.

They are determined to safeguard the freedom, common heritage and civilization of their peoples, founded on the principles of democracy, individual liberty and the rule of law.

They seek to promote stability and well-being in the North Atlantic area.

They are resolved to unite their efforts for collective defense and for the preservation of peace and security.

They therefore agree to this North Atlantic Treaty:

ARTICLE 1. The Parties undertake, as set forth in the Charter of the United Nations, to settle any international disputes in which they may be involved by peaceful means in such a manner that international peace and security, and justice, are not endangered, and to refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes of the United Nations.

ARTICLE 2. The Parties will contribute toward the further development of peaceful and friendly international relations by strengthening their free institutions, by bringing about a better understanding of the principles upon which these institutions are founded, and by promoting conditions of stability and well-being. They will seek to eliminate conflict in their international economic policies and will encourage economic collaboration between any or all of them.

ARTICLE 3. In order more effectively to achieve the objectives of this Treaty, the Parties, separately and jointly, by means of continuous and effective self-help and mutual aid, will maintain and develop their individual and collective capacity to resist armed attack.

ARTICLE 4. The Parties will consult together whenever, in the opinion of any of them, the territorial integrity, political independence or security of any of the Parties is threatened.

ARTICLE 5. The Parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all; and consequently they agree that, if such an armed attack occurs, each of them in exercise of the right of individual or collective self-defense recognized by Article 51 of the Charter of the United Nations, will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, such action as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area.

Any such armed attack and all measures taken as a result thereof shall immediately be reported to the Security Council. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security.

ARTICLE 6. For the purpose of Article 5 an armed attack on one or more of the Parties is deemed to include an armed attack on the territory of any of the Parties in Europe or North America, on the Algerian departments of France, on the occupation forces of any Party in Europe, on the islands under the jurisdiction of any Party in the North Atlantic area north of the Tropic of Cancer or on the vessels or aircraft in this area of any of the Parties.

ARTICLE 7. This Treaty does not affect, and shall not be interpreted as affecting, in any way the rights and obligations under the Charter of the Parties which are members of the United Nations, or the primary responsibility of the Security Council for the maintenance of international peace and security.

ARTICLE 8. Each Party declares that none of the international engagements now in force between it and any other of the Parties or any third state is in conflict with the provisions of this Treaty, and undertakes not to enter into any international engagement in conflict with this Treaty.

ARTICLE 9. The Parties hereby establish a council, on which each of them shall be represented, to consider matters concerning the implementation of this Treaty. The council shall be so organized as to be able to meet promptly at any time. The council shall set up such subsidiary bodies as may be necessary;

in particular it shall establish immediately a defense committee which shall recommend measures for the implementation of Articles 3 and 5.

ARTICLE 10. The Parties may, by unanimous agreement, invite any other European state in a position to further the principles of this Treaty and to contribute to the security of the North Atlantic area to accede to this Treaty. Any state so invited may become a party to the Treaty by depositing its instrument of accession with the Government of the United States of America. The Government of the United States of America will inform each of the Parties of the deposit of each such instrument of accession.

ARTICLE 11. This Treaty shall be ratified and its provisions carried out by the Parties in accordance with their respective constitutional processes. The instruments of ratification shall be deposited as soon as possible with the Government of the United States of America, which will notify all the other signatories of each deposit. The Treaty shall enter into force between the states which have ratified it as soon as the ratifications of the majority of the signatories, including the ratifications of Belgium, Canada, France, Luxembourg, the Netherlands, the United Kingdom and the United States, have been deposited and shall come into effect with respect to the other states on the date of the deposit of their ratifications.

ARTICLE 12. After the Treaty has been in force for ten years, or at any time thereafter the Parties shall, if any of them so requests, consult together for the purpose of reviewing the Treaty, having regard for the factors then affecting peace and security in the North Atlantic area, including the development of universal as well as regional arrangements under the Charter of the United Nations for the maintenance of international peace and security.

ARTICLE 13. After the Treaty has been in force for twenty years, any Party may cease to be a party one year after its notice of denunciation has been given to the Government of the United States of America, which will inform the Governments of the other Parties of the deposit of each notice of denunciation.

ARTICLE 14. This Treaty, of which the English and French texts are equally authentic, shall be deposited in the archives of the Government of the United States of America. Duly certified copies thereof will be transmitted by that Government to the Governments of the other signatories.

In witness whereof, the undersigned Plenipotentiaries have signed this Treaty.
DONE at Washington, the fourth day of April, 1949.

2. Protocol to the North Atlantic Treaty on the Accession of Greece and Turkey, London, 17 October 1951

On 19 September 1950 the North Atlantic Council invited Greece and Turkey to associate themselves "with such appropriate phases of the military planning work of the North Atlantic Treaty Organization as are concerned with the defense of the Mediterranean"; both countries accepted the invitation. At its meeting in Ottawa in September 1951, the Council adopted a resolution, proposed by the United States, recommending that the member governments undertake the steps necessary to permit the extension of an invitation to Greece and Turkey to accede to the North Atlantic Treaty, and that a protocol be formulated which would provide the basis for the accession of the two countries to the Treaty.

The present Protocol was opened for signature at London on 17 October 1951, and all parties to the Treaty had signed it by October 22, 1951. The notices of acceptance required by Article III of the Protocol had been made to the United States Government by all Parties to the North Atlantic Treaty by 15 February 1952, and invitations were sent to the Greek and Turkish Governments on the following day. Instruments of accession were deposited with the United States Government by both Greece and Turkey on 18 February 1952, which thereupon became parties to the Treaty.

The text is in U. S. Treaties and other International Acts Series 2390, and also in British Treaty Series No. 11 (1952), Cmd. 8489.

The Parties to the North Atlantic Treaty, signed at Washington on 4th April 1949,

Being satisfied that the security of the North Atlantic area will be enhanced by the accession of the Kingdom of Greece and the Republic of Turkey to that Treaty.

Agree as follows:—

ARTICLE I. Upon the entry into force of this Protocol, the Government of the United States of America shall, on behalf of all the Parties, communicate to the Government of the Kingdom of Greece and the Government of the Republic of Turkey an invitation to accede to the North Atlantic Treaty, as it may be modified by Article II of the present Protocol. Thereafter the Kingdom of Greece and the Republic of Turkey shall each become a Party on the date when it deposits its instrument of accession with the Government of the United States of America in accordance with Article 10 of the Treaty.

ARTICLE II. If the Republic of Turkey becomes a Party to the North Atlantic Treaty, Article 6 of the Treaty shall, as from the date of the deposit by the Government of the Republic of Turkey of its instrument of accession with the Government of the United States of America, be modified to read as follows:—

“For the purpose of Article 5, an armed attack on one or more of the Parties is deemed to include an armed attack—

(i) on the territory of any of the Parties in Europe or North America, on the Algerian Departments of France, on the territory of Turkey or on the islands under the jurisdiction of any of the Parties in the North Atlantic area north of the Tropic of Cancer;

(ii) on the forces, vessels or aircraft of any of the Parties, when in or over these territories or any other area in Europe in which occupation forces of any of the Parties were stationed on the date when the Treaty entered into force or the Mediterranean Sea or the North Atlantic area north of the Tropic of Cancer.”

ARTICLE III. The present Protocol shall enter into force when each of the Parties to the North Atlantic Treaty has notified the Government of the United States of America of its acceptance thereof. The Government of the United States of America shall inform all the Parties to the North Atlantic Treaty of the date of the receipt of each such notification and of the date of the entry into force of the present Protocol.

ARTICLE IV. The present Protocol, of which the English and French texts are equally authentic, shall be deposited in the Archives of the Government of

the United States of America. Duly certified copies thereof shall be transmitted by that Government to the Governments of all the Parties to the North Atlantic Treaty.

In witness whereof, the undersigned plenipotentiaries have signed the present Protocol.

Opened for signature at London the 17th day of October, 1951.

3. Treaties Concerning the Status of the North Atlantic Treaty Organization and its Forces

(A) AGREEMENT BETWEEN THE PARTIES TO THE NORTH ATLANTIC TREATY REGARDING THE STATUS OF THEIR FORCES, LONDON, 19 JUNE 1951

This agreement was signed in London on 19 June 1951 on behalf of the twelve original signatories of the North Atlantic Treaty and is open to accession by any State which accedes to that treaty. It entered into force in accordance with the terms of Article XVIII on 23 August 1953. Ratifications have been deposited with the government of the United States by France (29 September 1952), Norway (24 February 1953), Belgium (27 February 1953), and the United States of America (24 July 1953); also by Canada (28 August 1953). The advice and consent of the United States Senate, given by a resolution of 15 July 1953, contained the following statement:

"It is the understanding of the Senate, which understanding inheres in its advice and consent to the ratification of the Agreement, that nothing in the Agreement diminishes, abridges, or alters the right of the United States of America to safeguard its own security by excluding or removing persons whose presence in the United States is deemed prejudicial to its safety or security, and that no person whose presence in the United States is deemed prejudicial to its safety or security shall be permitted to enter or remain in the United States.

"In giving its advice and consent to ratification, it is the sense of the Senate that:

1. The criminal jurisdiction provisions of Article VII do not constitute a precedent for future agreements;

2. Where a person subject to the military jurisdiction of the United States is to be tried by the authorities of a receiving state, under the treaty the Commanding Officer of the Armed forces of the United States in such state shall examine the laws of such state with particular reference to the procedural safeguards contained in the Constitution of the United States;

3. If, in the opinion of such commanding officer, under all the circumstances of the case, there is danger that the accused will not be protected because of the absence or denial of constitutional rights he would enjoy in the United States, the commanding officer shall request the authorities of the receiving state to waive jurisdiction in accordance with the provisions of paragraph 3 (c) of Article VII (which requires the receiving state to give 'sympathetic consideration' to such request) and if such authorities refuse to waive jurisdiction, the commanding officer shall request the Department of State to press such request through diplomatic channels and notification shall be given by the Executive Branch to the Armed Services Committees of the Senate and House of Representatives;

4. A representative of the United States to be appointed by the Chief of Diplomatic Mission with the advice of the senior United States military representative in the receiving state will attend the trial of any such person by the authorities of a receiving state under the agreement, and any failure to comply with the provisions of paragraph 9 of Article VII of the agreement shall be reported to the commanding officer of the armed forces of the United States in such state who shall then request the Department of State to take appropriate action to protect the rights of the accused, and notification shall be given by the Executive Branch to the Armed Services Committees of the Senate and House of Representatives."

Portugal made the following reservation on signing: "This Agreement is only applicable to the territory of Continental Portugal, with the exclusion of the Adjacent Islands and the Overseas Provinces."

In the text given below, taken from U. S. Treaties and other International Acts Series 2486, an Appendix containing forms for a vehicle triptyque and a temporary exit and entry pass is omitted.

The Parties to the North Atlantic Treaty signed in Washington on 4th April 1949.

Considering that the forces of one Party may be sent, by arrangement, to serve in the territory of another Party;

Bearing in mind that the decision to send them and the conditions under which they will be sent, in so far as such conditions are not laid down by the present Agreement, will continue to be the subject of separate arrangements between the Parties concerned;

Desiring, however, to define the status of such forces while in the territory of another Party;

Have agreed as follows:

ARTICLE I. 1. In this Agreement the expression—

(a) "force" means the personnel belonging to the land, sea or air armed services of one Contracting Party when in the territory of another Contracting Party in the North Atlantic Treaty area in connexion with their official duties, provided that the two Contracting Parties concerned may agree that certain individuals, units or formations shall not be regarded as constituting or included in a "force" for the purposes of the present Agreement;

(b) "civilian component" means the civilian personnel accompanying a force of a Contracting Party who are in the employ of an armed service of that Contracting Party, and who are not stateless persons, nor nationals of any State which is not a Party to the North Atlantic Treaty, nor nationals of, nor ordinarily resident in, the State in which the force is located;

(c) "dependent" means the spouse of a member of a force or of a civilian component, or a child of such member depending on him or her for support;

(d) "sending State" means the Contracting Party to which the force belongs;

(e) "receiving State" means the Contracting Party in the territory of which the force or civilian component is located, whether it be stationed there or passing in transit;

(f) "military authorities of the sending State" means those authorities of a sending State who are empowered by its law to enforce the military law of that State with respect to members of its forces or civilian components;

(g) "North Atlantic Council" means the Council established by Article 9 of the North Atlantic Treaty or any of its subsidiary bodies authorized to act on its behalf.

2. This Agreement shall apply to the authorities of political subdivisions of the Contracting Parties, within their territories to which the Agreement applies or extends in accordance with Article XX, as it applies to the central authorities of

those Contracting Parties, provided, however, that property owned by political sub-divisions shall not be considered to be property owned by a Contracting Party within the meaning of Article VIII.

ARTICLE II. It is the duty of a force and its civilian component and the members thereof as well as their dependents to respect the law of the receiving State, and to abstain from any activity inconsistent with the spirit of the present Agreement, and, in particular, from any political activity in the receiving State. It is also the duty of the sending State to take necessary measures to that end.

ARTICLE III. 1. On the conditions specified in paragraph 2 of this Article and subject to compliance with the formalities established by the receiving State relating to entry and departure of a force or the members thereof, such members shall be exempt from passport and visa regulations and immigration inspection on entering or leaving the territory of a receiving State. They shall also be exempt from the regulations of the receiving State on the registration and control of aliens, but shall not be considered as acquiring any right to permanent residence or domicile in the territories of the receiving State.

2. The following documents only will be required in respect to members of a force. They must be presented on demand:

(a) personal identity card issued by the sending State showing names, date of birth, rank and number (if any), service, and photograph;

(b) individual or collective movement order, in the language of the sending State and in the English and French languages, issued by an appropriate agency of the sending State or of the North Atlantic Treaty Organization and certifying to the status of the individual group as a member or members of a force and to the movement ordered. The receiving State may require a movement order to be countersigned by its appropriate representative.

3. Members of a civilian component and dependents shall be so described in their passports.

4. If a member of a force or of a civilian component leaves the employ of the sending State and is not repatriated, the authorities of the sending State shall immediately inform the authorities of the receiving State, giving such particulars as may be required. The authorities of the sending State shall similarly inform the authorities of the receiving State of any member who has absented himself for more than twenty-one days.

5. If the receiving State has requested the removal from its territory of a member of a force or civilian component or has made an expulsion order against an ex-member of a force or of a civilian component or against a dependent of a member or ex-member, the authorities of the sending State shall be responsible for receiving the person concerned within their own territory or otherwise disposing of him outside the receiving State. This paragraph shall apply only to persons who are not nationals of the receiving State and have entered the receiving State as members of a force or civilian component or for the purpose of becoming such members, and to the dependents of such persons.

ARTICLE IV. The receiving State shall either

(a) accept as valid, without a driving test or fee, the driving permit or license or military driving permit issued by the sending State or a sub-division thereof to a member of a force or of a civilian component; or

(b) issue its own driving permit or license to any member of a force or civilian component who holds a driving permit or license or military driving permit issued by the sending State or a subdivision thereof, provided that no driving test shall be required.

ARTICLE V. 1. Members of a force shall normally wear uniform. Subject to any arrangement to the contrary between the authorities of the sending and receiving States, the wearing of civilian dress shall be on the same conditions as for members of the forces of the receiving State. Regularly constituted units or formations of a force shall be in uniform when crossing a frontier.

2. Service vehicles of a force or civilian component shall carry, in addition to their registration number, a distinctive nationality mark.

ARTICLE VI. Members of a force may possess and carry arms, on condition that they are authorised to do so by their orders. The authorities of the sending State shall give sympathetic consideration to requests from the receiving State concerning this matter.

ARTICLE VII. 1. Subject to the provisions of this Article,

(a) the military authorities of the sending State shall have the right to exercise within the receiving State all criminal disciplinary jurisdiction conferred on them by the law of the sending State over all persons subject to the military law of that State;

(b) the authorities of the receiving State shall have jurisdiction over the members of a force or civilian component and their dependents with respect to offences committed within the territory of the receiving State and punishable by the law of that State.

2.—(a) The military authorities of the sending State shall have the right to exercise exclusive jurisdiction over persons subject to the military law of that State with respect to offences, including offences relating to its security, punishable by the law of the sending State, but not by the law of the receiving State.

(b) The authorities of the receiving State shall have the right to exercise exclusive jurisdiction over members of a force or civilian component and their dependents with respect to offences, including offences relating to the security of that State, punishable by its law but not by the law of the sending State.

(c) For the purposes of this paragraph and of paragraph 3 of this Article a security offence against a State shall include

(i) treason against the State;

(ii) sabotage, espionage or violation of any law relating to official secrets of that State, or secrets relating to the national defence of that State.

3. In cases where the right to exercise jurisdiction is concurrent the following rules shall apply:

(a) The military authorities of the sending State shall have the primary right to exercise jurisdiction over a member of a force or of a civilian component in relation to

(i) offences solely against the property or security of that State, or offences solely against the person or property of another member of the force or civilian component of that State or of a dependent;

(ii) offences arising out of any act or omission done in the performance of official duty.

(b) In the case of any other offence the authorities of the receiving State shall have the primary right to exercise jurisdiction.

(c) If the State having the primary right decides not to exercise jurisdiction, it shall notify the authorities of the other State as soon as practicable. The authorities of the State having the primary right shall give sympathetic consideration to a request from the authorities of the other State for a waiver of its right in cases where that other State considers such waiver to be of particular importance.

4. The foregoing provisions of this Article shall not imply any right for the military authorities of the sending State to exercise jurisdiction over persons who are nationals of or ordinarily resident in the receiving State, unless they are members of the force of the sending State.

5.—(a) The authorities of the receiving and sending States shall assist each other in the arrest of members of a force or civilian component or their dependents in the territory of the receiving State and in handing them over to the authority which is to exercise jurisdiction in accordance with the above provisions.

(b) The authorities of the receiving States shall notify promptly the military authorities of the sending State of the arrest of any member of a force or civilian component or a dependent.

(c) The custody of an accused member of a force or civilian component over whom the receiving State is to exercise jurisdiction shall, if he is in the hands of the sending State, remain with that State until he is charged by the receiving State.

6.—(a) The authorities of the receiving and sending States shall assist each other in the carrying out of all necessary investigations into offences, and in the collection and production of evidence, including the seizure and, in proper cases, the handing over of objects connected with an offence. The handing over of such objects may, however, be made subject to their return within the time specified by the authority delivering them.

(b) The authorities of the Contracting Parties shall notify one another of the disposition of all cases in which there are concurrent rights to exercise jurisdiction.

7.—(a) A death sentence shall not be carried out in the receiving State by the authorities of the sending State if the legislation of the receiving State does not provide such punishment in a similar case.

(b) The authorities of the receiving State shall give sympathetic consideration to a request from the authorities of the sending State for assistance in carrying out a sentence of imprisonment pronounced by the authorities of the sending State under the provision of this Article within the territory of the receiving State.

8. Where an accused has been tried in accordance with the provisions of this Article by the authorities of one Contracting Party and has been acquitted or has been convicted and is serving or has served his sentence or has been pardoned, he may not be tried again for the same offence within the same territory by the authorities of another Contracting Party. However, nothing in this paragraph shall prevent the military authorities of the sending State from trying a member of its force for any violation of rules of discipline arising from an act or omission which constituted an offence for which he was tried by the authorities of another Contracting Party.

9. Whenever a member of a force or civilian component or a dependent is prosecuted under the jurisdiction of a receiving State he shall be entitled—

- (a) to a prompt and speedy trial;
- (b) to be informed, in advance of trial, of the specific charge or charges made against him;
- (c) to be confronted with the witnesses against him;
- (d) to have compulsory process for obtaining witnesses in his favour, if they are within the jurisdiction of the receiving State;
- (e) to have legal representation of his own choice for his defence or to have free or assisted legal representation under the conditions prevailing for the time being in the receiving State;
- (f) if he considers it necessary, to have the services of a competent interpreter; and
- (g) to communicate with a representative of the Government of the sending State and, when the rules of the court permit, to have such a representative present at his trial.

10.—(a) Regularly constituted military units or formations of a force shall have the right to police any camps, establishments or other premises which they occupy as the result of an agreement with the receiving State. The military police of the force may take all appropriate measures to ensure the maintenance of order and security on such premises.

(b) Outside these premises, such military police shall be employed only subject to arrangements with the authorities of the receiving State and in liaison with those authorities, and in so far as such employment is necessary to maintain discipline and order among the members of the force.

11. Each Contracting Party shall seek such legislation as it deems necessary to ensure the adequate security and protection within its territory of installations, equipment, property, records and official information of other Contracting Parties, and the punishment of persons who may contravene laws enacted for that purpose.

ARTICLE VIII. 1. Each Contracting Party waives all its claims against any other Contracting Party for damage to any property owned by it and used by its land, sea or air armed services, if such damage—

(i) was caused by a member or an employee of the armed services of the other Contracting Party in the execution of his duties in connexion with the operation of the North Atlantic Treaty; or

(ii) arose from the use of any vehicle, vessel or aircraft owned by the other Contracting Party and used by its armed services, provided either that the vehicle, vessel or aircraft causing the damage was being used in connexion with the operation of the North Atlantic Treaty, or that the damage was caused to property being so used.

Claims for maritime salvage by one Contracting Party against any other Contracting Party shall be waived, provided that the vessel or cargo salvd was owned by a Contracting Party and being used by its armed services in connexion with the operation of the North Atlantic Treaty.

2.—(a) In the case of damage caused or arising as stated in paragraph 1 to other property owned by a Contracting Party and located in its territory, the issue of the liability of any other Contracting Party shall be determined and the amount of damage shall be assessed, unless the Contracting Parties concerned agree otherwise, by a sole arbitrator selected in accordance with sub-paragraph (b) of this paragraph. The arbitrator shall also decide any counter-claims arising out of the same incident.

(b) The arbitrator referred to in sub-paragraph (a) above shall be selected by agreement between the Contracting Parties concerned from amongst the nationals of the receiving State who hold or have held high judicial office. If the Contracting Parties concerned are unable, within two months, to agree upon the arbitrator, either may request the Chairman of the North Atlantic Council Deputies to select a person with the aforesaid qualifications.

(c) Any decision taken by the arbitrator shall be binding and conclusive upon the Contracting Parties.

(d) The amount of any compensation awarded by the arbitrator shall be distributed in accordance with the provisions of paragraph 5 (e) (i), (ii) and (iii) of this Article.

(e) The compensation of the arbitrator shall be fixed by agreement between the Contracting Parties concerned and shall, together with the necessary expenses incidental to the performance of his duties, be defrayed in equal proportions by them.

(f) Nevertheless, each Contracting Party waives its claim in any such case where the damage is less than:—

Belgium: B.fr. 70,000.

Canada: \$1,460.

Denmark: Kr. 9,670.

France: F.fr. 490,000.

Iceland: Kr. 22,800.

Italy: Li. 850,000.

Luxembourg: L.fr. 70,000.

Netherlands: Fl. 5,320.

Norway: Kr. 10,000.

Portugal: Es. 40,250.

United Kingdom: £500.

United States: \$1,400.

Any other Contracting Party whose property has been damaged in the same incident shall also waive its claim up to the above amount. In the case of considerable variation in the rates of exchange between these currencies the Contracting Parties shall agree on the appropriate adjustments of these amounts.

3. For the purposes of paragraphs 1 and 2 of this Article the expression "owned by a Contracting Party" in the case of a vessel includes a vessel on bare boat charter to that Contracting Party or requisitioned by it on bare boat terms or seized by it in prize (except to the extent that the risk of loss or liability is borne by some person other than such Contracting Party).

4. Each Contracting Party waives all its claims against any other Contracting Party for injury or death suffered by any member of its armed services while such member was engaged in the performance of his official duties.

5. Claims (other than contractual claims and those to which paragraphs 6 or 7 of this Article apply) arising out of acts or omissions of members of a force or civilian component done in the performance of official duty, or out of any other act, omission or occurrence for which a force or civilian component is legally responsible, and causing damage in the territory of the receiving State to third parties, other than any of the Contracting Parties, shall be dealt with by the receiving State in accordance with the following provisions:—

(a) Claims shall be filed, considered and settled or adjudicated in accordance with the laws and regulations of the receiving State with respect to claims arising from the activities of its own armed forces.

(b) The receiving State may settle any such claims, and payment of the amount agreed upon or determined by adjudication shall be made by the receiving State in its currency.

(c) Such payment, whether made pursuant to a settlement or to adjudication of the case by a competent tribunal of the receiving State, or the final adjudication by such a tribunal denying payment, shall be binding and conclusive upon the Contracting Parties.

(d) Every claim paid by the receiving State shall be communicated to the sending States concerned together with full particulars and a proposed distribution in conformity with sub-paragraphs (e) (i), (ii) and (iii) below. In default of a reply within two months, the proposed distribution shall be regarded as accepted.

(e) The cost incurred in satisfying claims pursuant to the preceding sub-paragraphs and paragraph 2 of this Article shall be distributed between the Contracting Parties, as follows:—

(i) Where one sending State alone is responsible, the amount awarded or adjudged shall be distributed in the proportion of 25 per cent. chargeable to the receiving State and 75 per cent. chargeable to the sending State.

(ii) Where more than one State is responsible for the damage, the amount awarded or adjudged shall be distributed equally among them: however, if the receiving State is not one of the States responsible, its contribution shall be half that of each of the sending States.

(iii) Where the damage was caused by the armed services of the Contracting Parties and it is not possible to attribute it specifically to one or more of those armed services, the amount awarded or adjudged shall be distributed equally among the Contracting Parties concerned: however, if the receiving State is not

one of the States by whose armed services the damage was caused, its contribution shall be half that of each of the sending States concerned.

(iv) Every half-year, a statement of the sums paid by the receiving State in the course of the half-yearly period in respect of every case regarding which the proposed distribution on a percentage basis has been accepted, shall be sent to the sending States concerned, together with a request for reimbursement. Such reimbursement shall be made within the shortest possible time, in the currency of the receiving State.

(f) In cases where the application of the provisions of sub-paragraphs (b) and (e) of this paragraph would cause a Contracting Party serious hardship, it may request the North Atlantic Council to arrange a settlement of a different nature.

(g) A member of a force or civilian component shall not be subject to any proceedings for the enforcement of any judgment given against him in the receiving State in a matter arising from the performance of his official duties.

(h) Except in so far as sub-paragraph (e) of this paragraph applies to claims covered by paragraph 2 of this Article, the provisions of this paragraph shall not apply to any claim arising out of or in connection with the navigation or operation of a ship or the loading, carriage, or discharge of a cargo, other than claims for death or personal injury to which paragraph 4 of this Article does not apply.

6. Claims against members of a force or civilian component arising out of tortious acts or omissions in the receiving State not done in the performance of official duty shall be dealt with in the following manner:—

(a) The authorities of the receiving State shall consider the claim and assess compensation to the claimant in a fair and just manner, taking into account all the circumstances of the case, including the conduct of the injured person, and shall prepare a report on the matter.

(b) The report shall be delivered to the authorities of the sending State, who shall then decide without delay whether they will offer an *ex gratia* payment, and if so, of what amount.

(c) If an offer of *ex gratia* payment is made, and accepted by the claimant in full satisfaction of his claim, the authorities of the sending State shall make the payment themselves and inform the authorities of the receiving State of their decision and of the sum paid.

(d) Nothing in this paragraph shall affect the jurisdiction of the courts of the receiving State to entertain an action against a member of a force or of a civilian component unless and until there has been payment in full satisfaction of the claim.

7. Claims arising out of the unauthorised use of any vehicle of the armed services of a sending State shall be dealt with in accordance with paragraph 6 of this Article, except in so far as the force or civilian component is legally responsible.

8. If a dispute arises as to whether a tortious act or omission of a member of a force or civilian component was done in the performance of official duty or as to whether the use of any vehicle of the armed services of a sending State was

unauthorised, the question shall be submitted to an arbitrator appointed in accordance with paragraph 2 (*b*) of this Article, whose decision on this point shall be final and conclusive.

9. The sending State shall not claim immunity from the jurisdiction of the courts of the receiving State for members of a force or civilian component in respect of the civil jurisdiction of the courts of the receiving State except to the extent provided in paragraph 5 (*g*) of this Article.

10. The authorities of the sending State and of the receiving State shall co-operate in the procurement of evidence for a fair hearing and disposal of claims in regard to which the Contracting Parties are concerned.

ARTICLE IX. 1. Members of a force or of a civilian component and their dependents may purchase locally goods necessary for their own consumption, and such services as they need, under the same conditions as the nationals of the receiving State.

2. Goods which are required from local sources for the subsistence of a force or civilian component shall normally be purchased through the authorities which purchase such goods for the armed services of the receiving State. In order to avoid such purchases having any adverse effect on the economy of the receiving State, the competent authorities of that State shall indicate, when necessary, any articles the purchase of which should be restricted or forbidden.

3. Subject to agreements already in force or which may hereafter be made between the authorised representatives of the sending and receiving States, the authorities of the receiving State shall assume sole responsibility for making suitable arrangements to make available to a force or a civilian component the buildings and grounds which it requires, as well as facilities and services connected therewith. These agreements and arrangements shall be, as far as possible, in accordance with the regulations governing the accommodation and billeting of similar personnel of the receiving State. In the absence of a specific contract to the contrary, the laws of the receiving State shall determine the rights and obligations arising out of the occupation or use of the buildings, grounds, facilities or services.

4. Local civilian labour requirements of a force or civilian component shall be satisfied in the same way as the comparable requirements of the receiving State and with the assistance of the authorities of the receiving State through the employment exchanges. The conditions of employment and work, in particular wages, supplementary payments and conditions for the protection of workers, shall be those laid down by the legislation of the receiving State. Such civilian workers employed by a force or civilian component shall not be regarded for any purpose as being members of that force or civilian component.

5. When a force or a civilian component has at the place where it is stationed inadequate medical or dental facilities, its members and their dependents may receive medical and dental care, including hospitalisation, under the same conditions as comparable personnel of the receiving State.

6. The receiving State shall give the most favourable consideration to requests for the grant to members of a force or of a civilian component of travel-

ling facilities and concessions with regard to fares. These facilities and concessions will be the subject of special arrangements to be made between the Governments concerned.

7. Subject to any general or particular financial arrangements between the Contracting Parties, payment in local currency for goods, accommodation and services furnished under paragraphs 2, 3, 4 and, if necessary, 5 and 6, of this Article shall be made promptly by the authorities of the force.

8. Neither a force, nor a civilian component, nor the members thereof, nor their dependents, shall by reason of this Article enjoy any exemption from taxes or duties relating to purchases and services chargeable under the fiscal regulations of the receiving State.

ARTICLE X. 1. Where the legal incidence of any form of taxation in the receiving State depends upon residence or domicile, periods during which a member of a force or civilian component is in the territory of that State by reason solely of his being a member of such force or civilian component shall not be considered as periods of residence therein, or as creating a change of residence or domicile, for the purposes of such taxation. Members of a force or civilian component shall be exempt from taxation in the receiving State on the salary and emoluments paid to them as such members by the sending State or on any tangible movable property the presence of which in the receiving State is due solely to their temporary presence there.

2. Nothing in this Article shall prevent taxation of a member of a force or civilian component with respect to any profitable enterprise, other than his employment as such member, in which he may engage in the receiving State, and, except as regards his salary and emoluments and the tangible movable property referred to in paragraph 1, nothing in this Article shall prevent taxation to which, even if regarded as having his residence or domicile outside the territory of the receiving State, such a member is liable under the law of that State.

3. Nothing in this Article shall apply to "duty" as defined in paragraph 12 of Article XI.

4. For the purposes of this Article the term "member of a force" shall not include any person who is a national of the receiving State.

ARTICLE XI. 1. Save as provided expressly to the contrary in this Agreement, members of a force and of a civilian component as well as their dependents shall be subject to the laws and regulations administered by the customs authorities of the receiving State. In particular the customs authorities of the receiving State shall have the right, under the general conditions laid down by the laws and regulations of the receiving State, to search members of a force or civilian component and their dependents and to examine their luggage and vehicles, and to seize articles pursuant to such laws and regulations.

2.—(a) The temporary importation and the re-exportation of service vehicles of a force or civilian component under their own power shall be authorised free of duty on presentation of a triptyque in the form shown in the Appendix to this Agreement. [Not reproduced.]

(*b*) The temporary importation of such vehicles not under their own power shall be governed by paragraph 4 of this Article and the re-exportation thereof by paragraph 8.

(*c*) Service vehicles of a force or civilian component shall be exempt from any tax payable in respect of the use of vehicles on the roads.

3. Official documents under official seal shall not be subject to customs inspection. Couriers, whatever their status, carrying these documents must be in possession of an individual movement order issued in accordance with paragraph 2 (*b*) of Article III. This movement order shall show the number of despatches carried and certify that they contain only official documents.

4. A force may import free of duty the equipment for the force and reasonable quantities of provisions, supplies and other goods for the exclusive use of the force and, in cases where such use is permitted by the receiving State, its civilian component and dependents. This duty-free importation shall be subject to the deposit, at the customs office for the place of entry, together with such customs documents as shall be agreed, of a certificate in a form agreed between the receiving State and the sending State signed by a person authorised by the sending State for that purpose. The designation of the person authorised to sign the certificates as well as specimens of the signatures and stamps to be used, shall be sent to the customs administration of the receiving State.

5. A member of a force or civilian component may, at the time of his first arrival to take up service in the receiving State or at the time of the first arrival of any dependent to join him, import his personal effects and furniture free of duty for the term of such service.

6. Members of a force or civilian component may import temporarily free of duty their private motor vehicles for the personal use of themselves and their dependents. There is no obligation under this Article to grant exemption from taxes payable in respect of the use of roads by private vehicles.

7. Imports made by the authorities of a force other than for the exclusive use of that force and its civilian component, and imports, other than those dealt with in paragraphs 5 and 6 of this Article, effected by members of a force or civilian component are not, by reason of this Article, entitled to any exemption from duty or other conditions.

8. Goods which have been imported duty-free under paragraphs 2 (*b*), 4, 5 or 6 above—

(*a*) may be re-exported freely, provided that, in the case of goods imported under paragraph 4, a certificate, issued in accordance with that paragraph is presented to the customs office: the customs authorities, however, may verify that goods re-exported are as described in the certificate, if any, and have in fact been imported under the conditions of paragraphs 2 (*b*), 4, 5 or 6 as the case may be;

(*b*) shall not normally be disposed of in the receiving State by way of either sale or gift: however, in particular cases such disposal may be authorised on conditions imposed by the authorities concerned of the receiving State (for

instance, on payment of duty and tax and compliance with the requirements or the controls of trade and exchange).

9. Goods purchased in the receiving State shall be exported therefrom only in accordance with the regulations in force in the receiving State.

10. Special arrangements for crossing frontiers shall be granted by the customs authorities to regularly constituted units or formations, provided that the customs authorities concerned have been duly notified in advance.

11. Special arrangements shall be made by the receiving State so that fuel, oil and lubricants for use in service vehicles, aircraft and vessels of a force or civilian component, may be delivered free of all duties and taxes.

12. In paragraphs 1-10 of this Article—

“duty” means customs duties and all other duties and taxes payable on importation or exportation, as the case may be, except duties and taxes which are no more than charges for services rendered;

“importation” includes withdrawal from customs warehouses or continuous customs custody, provided that the goods concerned have not been grown, produced or manufactured in the receiving State.

13. The provisions of this Article shall apply to the goods concerned not only when they are imported into or exported from the receiving State, but also when they are in transit through the territory of a Contracting Party, and for this purpose the expression “receiving State” in this Article shall be regarded as including any Contracting Party through whose territory the goods are passing in transit.

ARTICLE XII. 1. The customs or fiscal authorities of the receiving State may, as a condition of the grant of any customs or fiscal exemption or concession provided for in this Agreement, require such conditions to be observed as they may deem necessary to prevent abuse.

2. These authorities may refuse any exemption provided for by this Agreement in respect of the importation into the receiving State of articles grown, produced or manufactured in that State which have been exported therefrom without payment of, or upon repayment of, taxes or duties which would have been chargeable but for such exportation. Goods removed from a customs warehouse shall be deemed to be imported if they were regarded as having been exported by reason of being deposited in the warehouse.

ARTICLE XIII. 1. In order to prevent offences against customs and fiscal laws and regulations, the authorities of the receiving and of the sending States shall assist each other in the conduct of enquiries and the collection of evidence.

2. The authorities of a force shall render all assistance within their power to ensure that articles liable to seizure by, or on behalf of, the customs or fiscal authorities of the receiving State are handed to those authorities.

3. The authorities of a force shall render all assistance within their power to ensure the payment of duties, taxes and penalties payable by members of the force or civilian component or their dependents.

4. Service vehicles and articles belonging to a force or to its civilian component, and not to a member of such force or civilian component, seized by the authorities

of the receiving State in connection with an offence against its customs or fiscal laws or regulations shall be handed over to the appropriate authorities of the force concerned.

ARTICLE XIV. 1. A force, a civilian component and the members thereof, as well as their dependents, shall remain subject to the foreign exchange regulations of the sending State and shall also be subject to the regulations of the receiving State.

2. The foreign exchange authorities of the sending and the receiving States may issue special regulations applicable to a force or civilian component or the members thereof as well as to their dependents.

ARTICLE XV. 1. Subject to paragraph 2 of this Article, this Agreement shall remain in force in the event of hostilities to which the North Atlantic Treaty applies, except that the provisions for settling claims in paragraphs 2 and 5 of Article VIII shall not apply to war damage, and that the provisions of the Agreement, and, in particular of Articles III and VII, shall immediately be reviewed by the Contracting Parties concerned, who may agree to such modifications as they may consider desirable regarding the application of the Agreement between them.

2. In the event of such hostilities, each of the Contracting Parties shall have the right, by giving 60 days' notice to the other Contracting Parties, to suspend the application of any of the provisions of this Agreement so far as it is concerned. If this right is exercised, the Contracting Parties shall immediately consult with a view to agreeing on suitable provisions to replace the provisions suspended.

ARTICLE XVI. All differences between the Contracting Parties relating to the interpretation or application of this Agreement shall be settled by negotiation between them without recourse to any outside jurisdiction. Except where express provision is made to the contrary in this Agreement, differences which cannot be settled by direct negotiation shall be referred to the North Atlantic Council.

ARTICLE XVII. Any Contracting Party may at any time request the revision of any Article of this Agreement. The request shall be addressed to the North Atlantic Council.

ARTICLE XVIII. 1. The present Agreement shall be ratified and the instruments of ratification shall be deposited as soon as possible with the Government of the United States of America, which shall notify each signatory State of the date of deposit thereof.

2. Thirty days after four signatory States have deposited their instruments of ratification the present Agreement shall come into force between them. It shall come into force for each other signatory State thirty days after the deposit of its instrument of ratification.

3. After it has come into force, the present Agreement shall, subject to the approval of the North Atlantic Council and to such conditions as it may decide, be open to accession on behalf of any State which accedes to the North Atlantic

Treaty. Accession shall be effected by the deposit of an instrument of accession with the Government of the United States of America, which shall notify each signatory and acceding State of the date of deposit thereof. In respect of any State on behalf of which an instrument of accession is deposited, the present Agreement shall come into force thirty days after the date of the deposit of such instrument.

ARTICLE XIX. 1. The present Agreement may be denounced by any Contracting Party after the expiration of a period of four years from the date on which the Agreement comes into force.

2. The denunciation of the Agreement by any Contracting Party shall be effected by a written notification addressed by that Contracting Party to the Government of the United States of America, which shall notify all the other Contracting Parties of each such notification and the date of receipt thereof.

3. The denunciation shall take effect one year after the receipt of the notification by the Government of the United States of America. After the expiration of this period of one year, the Agreement shall cease to be in force as regards the Contracting Party which denounces it, but shall continue in force for the remaining Contracting Parties.

ARTICLE XX. 1. Subject to the provisions of paragraphs 2 and 3 of this Article, the present Agreement shall apply only to the metropolitan territory of a Contracting Party.

2. Any State may, however, at the time of the deposit of its instrument of ratification or accession or at any time thereafter, declare by notification given to the Government of the United States of America that the present Agreement shall extend (subject, if the State making the declaration considers it to be necessary, to the conclusion of a special agreement between that State and each of the sending States concerned) to all or any of the territories for whose international relations it is responsible in the North Atlantic Treaty area. The present Agreement shall then extend to the territory or territories named therein thirty days after the receipt by the Government of the United States of America of the notification, or thirty days after the conclusion of the special agreements if required, or when it has come into force under Article XVII, whichever is the later.

3. A State which has made a declaration under paragraph 2 of this Article extending the present Agreement to any territory for whose international relations it is responsible may denounce the Agreement separately in respect of that territory in accordance with the provisions of Article XIX.

In witness whereof the undersigned Plenipotentiaries have signed the present Agreement.

Done in London this nineteenth day of June 1951, in the English and French languages, both texts being equally authoritative, in a single original which shall be deposited in the archives of the Government of the United States of America. The Government of the United States of America shall transmit certified copies thereof to all the signatory and acceding States.

**(B) PROTOCOL ON THE STATUS OF INTERNATIONAL MILITARY HEAD-
QUARTERS ESTABLISHED PURSUANT TO THE NORTH ATLANTIC
TREATY, PARIS, 28 AUGUST 1952**

NOT IN FORCE ON 1 APRIL 1954

This Protocol to the Status of Forces Agreement of 19 June 1951 was signed at Paris on 28 August 1952 on behalf of all the parties to the North Atlantic Treaty, including Greece and Turkey, whose accession had become effective on 18 February 1952. Instruments of ratification have been deposited in accordance with the terms of Article 16 (I) and the relevant provisions of the Status of Forces Agreement by Norway (24 February 1943), Iceland (11 May 1953), and the United States (24 July 1953).

The text reproduced here is taken from U. S. Senate Executive B, 83d Congress, 1st session.

The Parties to the North Atlantic Treaty signed in Washington on 4th April, 1949,

Considering that international military Headquarters may be established in their territories, by separate arrangement, under the North Atlantic Treaty, and

Desiring to define that status of such Headquarters and of the personnel thereof within the North Atlantic Treaty area,

Have agreed to the present Protocol to the Agreement signed in London on 19th June, 1951, regarding the Status of their Forces:

ARTICLE 1. In the present Protocol the expression

(a) "the Agreement" means the Agreement signed in London on 19th June, 1951, by the Parties to the North Atlantic Treaty regarding the Status of their Forces;

(b) "Supreme Headquarters" means Supreme Headquarters Allied Powers in Europe, Headquarters of the Supreme Allied Commander Atlantic and any equivalent international military Headquarters set up pursuant to the North Atlantic Treaty;

(c) "Allied Headquarters" means any Supreme Headquarters and any international military Headquarters set up pursuant to the North Atlantic Treaty which is immediately subordinate to a Supreme Headquarters;

(d) "North Atlantic Council" means the Council established by Article 9 of the North Atlantic Treaty or any of its subsidiary bodies authorized to act on its behalf.

ARTICLE 2. Subject to the following provisions of this Protocol, the Agreement shall apply to Allied Headquarters in the territory of a Party to the present Protocol in the North Atlantic Treaty area, and to the military and civilian personnel of such Headquarters and their dependents included in the definitions in sub-paragraphs (a), (b) and (c) of paragraph I of Article 3 of this Protocol, when such personnel are present in any such territory in connection with their official duties or, in the case of dependents, the official duties of their spouse or parent.

ARTICLE 3. 1. For the purpose of applying the Agreement to an Allied Headquarters the expressions "force", "civilian component" and "dependent", wherever they occur in the Agreement, shall have the meanings set out below:

(a) "force" means the personnel attached to the Allied Headquarters who belong to the land, sea or air armed services of any Party to the North Atlantic Treaty;

(b) "civilian component" means civilian personnel who are not stateless persons, nor nationals of any State which is not a Party to the Treaty, nor nationals of, nor ordinarily resident in the receiving State, and who are (i) attached to the Allied Headquarters and in the employ of an armed service of a Party to the North Atlantic Treaty or (ii) in such categories of civilian personnel in the employ of the Allied Headquarters as the North Atlantic Council shall decide;

(c) "dependent" means the spouse of a member of a force or civilian component, as defined in sub-paragraphs (a) and (b) of this paragraph, or a child of such member depending on him or her for support.

2. An Allied Headquarters shall be considered to be a force for the purposes of Article II, paragraph 2 of Article V, paragraph 10 of Article VII, paragraphs 2, 3, 4, 7 and 8 of Article IX, and Article XIII, of the Agreement.

ARTICLE 4. The rights and obligations which the Agreement gives to or imposes upon the sending State or its authorities in respect of its forces or their civilian components or dependents shall, in respect of an Allied Headquarters and its personnel and their dependents to whom the Agreement applies in accordance with Article 2 of the present Protocol, be vested in or attach to the appropriate Supreme Headquarters and the authorities responsible under it, except that

(a) the right which is given by Article VII of the Agreement to the military authorities of the sending State to exercise criminal and disciplinary jurisdiction shall be vested in the military authorities of the State, if any, to whose military law the person concerned is subject;

(b) the obligations imposed upon the sending State or its authorities by Article II, paragraph 4 of Article III, paragraphs 5 (a) and 6 (a) of Article VII, paragraphs 9 and 10 of Article VIII, and Article XIII, of the Agreement, shall attach both to the Allied Headquarters and to any State whose armed service, or any member or employee of whose armed service, or the dependent of such member or employee, is concerned;

(c) for the purposes of paragraphs 2 (a) and 5 of Article III, and Article XIV, of the Agreement, the sending State shall be, in the case of members of a force and their dependents, the State to whose armed service the member belongs, or, in the case of members of a civilian component and their dependents, the State, if any, by whose armed service the member is employed;

(d) the obligations imposed on the sending State by virtue of paragraphs 6 and 7 of Article VIII of the Agreement shall attach to the State to whose armed service the person belongs whose act or omission has given rise to the claim, or, in the case of a member of a civilian component, to the State by whose armed service he is employed or, if there is no such State, to the Allied Headquarters of which the person concerned is a member.

Both the State, if any, to which obligations attach under this paragraph and the Allied Headquarters concerned shall have the rights of the sending State in connection with the appointment of an arbitrator under paragraph 8 of Article VIII.

ARTICLE 5. Every member of an Allied Headquarters shall have a personal identity card issued by the Headquarters showing names, date and place of birth, nationality, rank or grade, number (if any), photograph and period of validity. This card must be presented on demand.

ARTICLE 6. 1. The obligations to waive claims imposed on the Contracting Parties by Article VIII of the Agreement shall attach both to the Allied Headquarters and to any Party of this Protocol concerned.

2. For the purposes of paragraphs 1 and 2 of Article VIII of the Agreement, (a) property owned by an Allied Headquarters or by a Party to this Protocol and used by an Allied Headquarters shall be deemed to be property owned by a Contracting Party and used by its armed services;

(b) damage caused by a member of a force or civilian component as defined in paragraph 1 of Article 3 of this Protocol or by any other employee of an Allied Headquarters shall be deemed to be damage caused by a member or employee of the armed services of a Contracting Party;

(c) the definition of the expression "owned by a Contracting Party" in paragraph 3 of Article VIII shall apply in respect of an Allied Headquarters.

3. The claims to which paragraph 5 of Article VIII of the Agreement applies shall include claims (other than contractual claims and claims to which paragraphs 6 or 7 of that Article apply) arising out of acts or omissions of any employees of an Allied Headquarters, or out of any other act, omission or occurrence for which an Allied Headquarters is legally responsible, and causing damage in the territory of a receiving State to third parties, other than any of the Parties to this Protocol.

ARTICLE 7. 1. The exemption from taxation accorded under Article X of the Agreement to members of a force or civilian component in respect of their salaries and emoluments shall apply, as regards personnel of an Allied Headquarters within the definitions in paragraph 1 (a) and (b) of Article 3 of this Protocol, to salaries and emoluments paid to them as such personnel by the armed service to which they belong or by which they are employed, except that this paragraph shall not exempt any such member or employee from taxation imposed by a State of which he is a national.

2. Employees of an Allied Headquarters of categories agreed by the North Atlantic Council, shall be exempted from taxation on the salaries and emoluments paid to them by the Allied Headquarters in their capacity as such employees. Any Party to the present Protocol may, however, conclude an arrangement with the Allied Headquarters whereby such Party will employ and assign to the Allied Headquarters all of its nationals (except, if such Party so desires, any not ordinarily resident within its territory) who are to serve on the staff of the Allied Headquarters and pay the salaries and emoluments of such

persons from its own funds, at a scale fixed by it. The salaries and emoluments so paid may be taxed by the Party concerned but shall be exempted from taxation by any other Party. If such an arrangement is entered into by any Party to the present Protocol and is subsequently modified or terminated, Parties to the present Protocol shall no longer be bound under the first sentence of this paragraph to exempt from taxation the salaries and emoluments paid to their nationals.

ARTICLE 8. 1. For the purpose of facilitating the establishment, construction, maintenance and operation of Allied Headquarters, these Headquarters shall be relieved, so far as practicable, from duties and taxes affecting expenditures by them in the interest of common defense and for their official and exclusive benefit, and each Party to the present Protocol shall enter into negotiations with any Allied Headquarters operating in its territory for the purpose of concluding agreement to give effect to this provision.

2. An Allied Headquarters shall have the rights granted to a force under Article XI of the Agreement subject to the same conditions.

3. The provisions in paragraphs 5 and 6 of Article XI of the Agreement shall not apply to nationals of the receiving States, unless such nationals belong to the armed services of a Party to this Protocol other than the receiving State.

4. The expression "duties and taxes" in this Article does not include charges for services rendered.

ARTICLE 9. Except in so far as the North Atlantic Council may decide otherwise,

(a) any assets acquired from the international funds of an Allied Headquarters under its capital budget and no longer required by the Headquarters shall be disposed of under arrangements approved by the North Atlantic Council and the proceeds shall be distributed among or credited to the Parties to the North Atlantic Treaty in the proportions in which they have contributed to the capital costs of the Headquarters. The receiving State shall have the prior right to acquire any immovable property so disposed of in its territory, provided that it offers terms no less favourable than those offered by any third party;

(b) any land, buildings or fixed installations provided for the use of an Allied Headquarters by the receiving State without charge to the Headquarters (other than a nominal charge) and no longer required by the Headquarters shall be handed back to the receiving State, and any increase or loss in the value of the property provided by the receiving State resulting from its use by the Headquarters shall be determined by the North Atlantic Council (taking into consideration any applicable law of the receiving State) and distributed among or credited or debited to the Parties to the North Atlantic Treaty in proportions in which they have contributed to the capital costs of the Headquarters.

ARTICLE 10. Each Supreme Headquarters shall possess juridical personality; it shall have the capacity to conclude contracts and to acquire and dispose of property. The receiving State may, however, make the exercise of such capacity subject to special arrangements between it and the Supreme Headquarters or any subordinate Allied Headquarters acting on behalf of the Supreme Headquarters.

ARTICLE 11. 1. Subject to the provisions of Article VIII of the Agreement, a Supreme Headquarters may engage in legal proceedings as claimant or defendant. However, the receiving State and the Supreme Headquarters or any subordinate Allied Headquarters authorised by it may agree that the receiving State shall act on behalf of the Supreme Headquarters in any legal proceedings to which that Headquarters is a party before the courts of the receiving State.

2. No measure of execution or measure directed to the seizure or attachment of its property or funds shall be taken against any Allied Headquarters, except for the purpose of paragraph 6 (a) of Article VII and Article XIII of the Agreement.

ARTICLE 12. 1. To enable it to operate its international budget, an Allied Headquarters may hold currency of any kind and operate accounts in any currency.

2. The Parties to the present Protocol shall, at the request of an Allied Headquarters, facilitate transfers of the funds of such Headquarters from one country to another and the conversion of any currency held by an Allied Headquarters into any other currency, when necessary to meet the requirements of any Allied Headquarters.

ARTICLE 13. The archives and other official documents of an Allied Headquarters kept in premises used by those Headquarters or in the possession of any properly authorised member of the Headquarters shall be inviolable, unless the Headquarters has waived this immunity. The Headquarters shall, at the request of the receiving State and in the presence of a representative of that State, verify the nature of any documents to confirm that they are entitled to immunity under this Article.

ARTICLE 14. 1. The whole or any part of the present Protocol or of the Agreement may be applied, by decisions of the North Atlantic Council, to any international military Headquarters or organisation (not included in the definitions in paragraphs (b) and (c) of Article 1 of this Protocol) which is established pursuant to the North Atlantic Treaty.

2. When the European Defence Community comes into being, the present Protocol may be applied to the personnel of the European Defence Forces attached to an Allied Headquarters and their dependents at such time and in such manner as may be determined by the North Atlantic Council.

ARTICLE 15. All differences between the Parties to the present Protocol or between any such Parties and any Allied Headquarters relating to the interpretation or application of the Protocol shall be settled by negotiation between the parties in dispute without recourse to any outside jurisdiction. Except where express provision is made to the contrary in the present Protocol or in the Agreement, differences which cannot be settled by direct negotiation shall be referred to the North Atlantic Council.

ARTICLE 16. 1. Articles XV and XVII to XX of the Agreement shall apply as regards the present Protocol as if they were an integral part thereof, but so that the Protocol may be reviewed, suspended, ratified, acceded to, denounced or

extended in accordance with those provisions independently from the Agreement.

2. The present Protocol may be supplemented by bilateral agreement between the receiving State and a Supreme Headquarters, and the authorities of a receiving State and a Supreme Headquarters may agree to give effect, by administrative means in advance of ratification, to any provisions of this Protocol or of the Agreement as applied by it.

In witness whereof the undersigned Plenipotentiaries have signed the present Protocol.

DONE in Paris this 28th day of August 1952, in the English and French languages, both texts being equally authoritative, in a single original which shall be deposited in the archives of the Government of the United States of America. The Government of the United States of America shall transmit certified copies thereof to all the signatory and acceding States.

(C) AGREEMENT ON THE STATUS OF THE NORTH ATLANTIC TREATY ORGANISATION, NATIONAL REPRESENTATIVES, AND INTERNATIONAL STAFF, OTTAWA, 20 SEPTEMBER 1951

NOT IN FORCE ON 1 APRIL 1954

This Agreement was signed on behalf of the twelve original signatories of the North Atlantic Treaty, on 20 September 1951 in Ottawa, and is open for signature to all Member States of the North Atlantic Treaty Organisation. It was signed for Turkey on 2 October 1953. Instruments of ratification have been deposited with the Government of the United States in accordance with the terms of Article 26 by Denmark (7 May 1952), the Netherlands (14 July 1952), Norway (24 February 1953), and the United States (24 July 1953).

An arrangement of the type contemplated in Article 19 of the Agreement was concluded between the North Atlantic Council and the United States at London on 29 September 1951; this is reproduced immediately following the principal text below. On 12 December 1951, the French text of Articles 14 and 16 was revised by agreement of the North Atlantic Council Deputies, acting on behalf of their governments, to remove discrepancies; the English version remained unchanged.

The text reproduced here is from U. S. Senate Executive U, 82d Congress, 2d session. The text also appears in British Parliamentary Papers, Miscellaneous No. 14 (1951), Cmd. 8400.

The States signatory to the present Agreement,

Considering that for the exercise of their functions and the fulfillment of their purposes it is necessary that the North Atlantic Treaty Organisation, its international staff and the representatives of Member States attending meetings thereof should have the status set out hereunder,

Have agreed as follows:

PART I.—GENERAL

ARTICLE 1. In the present Agreement,

(a) "the Organisation" means the North Atlantic Treaty Organisation consisting of the Council and its subsidiary bodies;

(b) "the Council" means the Council established under Article 9 of the North Atlantic Treaty and the Council Deputies;

(c) "subsidiary bodies" means any organ, committee or service established by the Council or under its authority, except those to which, in accordance with Article 2, this Agreement does not apply;

(d) "Chairman of the Council Deputies" includes, in his absence, the Vice-Chairman acting for him.

ARTICLE 2. The present Agreement shall not apply to any military headquarters established in pursuance of the North Atlantic Treaty nor, unless the Council decides otherwise, to any other military bodies.

ARTICLE 3. The Organisation and Member States shall co-operate at all times to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse in connexion with the immunities and privileges set out in the present Agreement. If any Member State considers that there has been an abuse of any immunity or privilege conferred by this Agreement, consultations shall be held between that State and the Organisation, or between the States concerned, to determine whether any such abuse has occurred, and, if so, to attempt to ensure that no repetition occurs. Notwithstanding the foregoing or any other provisions of this Agreement, a Member State which considers that any person has abused his privilege of residence or any other privilege or immunity granted to him under this Agreement may require him to leave its territory.

PART II.—THE ORGANISATION

ARTICLE 4. The Organisation shall possess juridical personality; it shall have the capacity to conclude contracts, to acquire and dispose of movable and immovable property and to institute legal proceedings.

ARTICLE 5. The Organisation, its property and assets, wheresoever located and by whomsoever held, shall enjoy immunity from every form of legal process except in so far as in any particular case the Chairman of the Council Deputies, acting on behalf of the Organisation, may expressly authorise the waiver of this immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution or detention of property.

ARTICLE 6. The premises of the Organisation shall be inviolable. Its property and assets, wheresoever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of interference.

ARTICLE 7. The archives of the Organisation and all documents belonging to it or held by it shall be inviolable, wherever located.

ARTICLE 8. 1. Without being restricted by financial controls, regulations or moratoria of any kind,

(a) the Organisation may hold currency of any kind and operate accounts in any currency;

(b) the Organisation may freely transfer its funds from one country to another or within any country and convert any currency held by it into any other currency at the most favourable official rate of exchange for a sale or purchase as the case may be.

2. In exercising its rights under paragraph 1 above, the Organisation shall pay due regard to any representations made by any Member State and shall give effect of such representations in so far as it is practicable to do so.

ARTICLE 9. The Organisation, its assets, income and other property shall be exempt:

(a) from all direct taxes; the Organisation will not, however, claim exemption from rates, taxes or dues which are no more than charges for public utility services;

(b) from all customs duties and quantitative restrictions on imports and exports in respect of articles imported or exported by the Organisation for its official use; articles imported under such exemption shall not be disposed of, by way either of sale or gift, in the country into which they are imported except under conditions approved by the Government of that country;

(c) from all customs duties and quantitative restrictions on imports and exports in respect of its publications.

ARTICLE 10. While the Organisation will not as a general rule claim exemption from excise duties and from taxes on the sale of movable and immovable property which form part of the price to be paid, nevertheless, when the Organisation is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable. Member States will whenever possible make the appropriate administrative arrangements for the remission or return of the amount of duty or tax.

ARTICLE 11. 1. No censorship shall be applied to the official correspondence and other official communications of the Organisation.

2. The Organisation shall have the right to use codes and to despatch and receive correspondence by courier or in sealed bags, which shall have the same immunities and privileges as diplomatic couriers and bags.

3. Nothing in this Article shall be construed to preclude the adoption of appropriate security precautions to be determined by agreement between a Member State and the Council acting on behalf of the Organisation.

PART III.—REPRESENTATIVES OF MEMBER STATES

ARTICLE 12. Every person designated by a Member State as its principal permanent representative to the Organisation in the territory of another Member State, and such members of his official staff resident in that territory as may be agreed between the State which has designated them and the Organisation and between the Organisation and the State in which they will be resident, shall enjoy the immunities and privileges accorded to diplomatic representatives and their official staff of comparable rank.

ARTICLE 13. 1. Any representative of a Member State to the Council or any of its subsidiary bodies who is not covered by Article 12 shall, while present in the territory of another Member State for the discharge of his duties, enjoy the following privileges and immunities:

(a) the same immunity from personal arrest or detention as that accorded to diplomatic personnel of comparable rank;

(*b*) in respect of words spoken or written and of acts done by him in his official capacity, immunity from legal process;

(*c*) inviolability for all papers and documents;

(*d*) the right to use codes and to receive and send papers or correspondence by courier or in sealed bags;

(*e*) the same exemption in respect of himself and his spouse from immigration restrictions, aliens registration and national service obligations as that accorded to diplomatic personnel of comparable rank;

(*f*) the same facilities in respect of currency or exchange restrictions as are accorded to diplomatic personnel of comparable rank;

(*g*) the same immunities and facilities in respect of his personal baggage as are accorded to diplomatic personnel of comparable rank;

(*h*) the right to import free of duty his furniture and effects at the time of first arrival to take up his post in the country in question, and, on the termination of his functions in that country, to re-export such furniture and effects free of duty, subject in either case to such conditions as the Government of the country in which the right is being exercised may deem necessary;

(*i*) the right to import temporarily free of duty his private motor vehicle for his own personal use and subsequently to re-export such vehicle free of duty, subject in either case to such conditions as the Government of the country concerned may deem necessary.

2. Where the legal incidence of any form of taxation depends upon residence, a period during which a representative to whom this Article applies is present in the territory of another Member State for the discharge of his duties shall not be considered as a period of residence. In particular, he shall be exempt from taxation on his official salary and emoluments during such periods of duty.

3. In this Article "representative" shall be deemed to include all representatives, advisers and technical experts of delegations. Each Member State shall communicate to the other Member States concerned, if they so request, the names of its representatives to whom this Article applies and the probable duration of their stay in the territories of such other Member States.

ARTICLE 14. Official clerical staff accompanying a representative of a Member State who are not covered by Articles 12 or 13 shall, while present in the territory of another Member State for the discharge of their duties, be accorded the privileges and immunities set out in paragraph 1 (*b*), (*c*), (*e*), (*f*), (*h*) and (*i*) and paragraph 2 of Article 13.

ARTICLE 15. Privileges and immunities are accorded to the representatives of Member States and their staffs not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with the North Atlantic Treaty. Consequently, a Member State not only has the right, but is under a duty to waive the immunity of its representatives and members of their staffs in any case where, in its opinion, the immunity would impede the course of justice and can be waived without prejudice to the purposes for which the immunity is accorded.

ARTICLE 16. The provisions of Articles 12 to 14 above shall not require any State to grant any of the privileges or immunities referred to therein to any person who is its national or to any person as its representative or as a member of the staff of such representative.

PART IV.—INTERNATIONAL STAFF AND EXPERTS ON MISSIONS FOR THE ORGANISATION

ARTICLE 17. The categories of officials of the Organisation to which Articles 18 to 20 apply shall be agreed between the Chairman of the Council Deputies and each of the Member States concerned. The Chairman of the Council Deputies shall communicate to the Member States the names of the officials included in these categories.

ARTICLE 18. Officials of the Organisation agreed upon under Article 17 shall:

(a) be immune from legal process in respect of words spoken or written and of acts done by them in their official capacity and within the limits of their authority;

(b) be granted, together with their spouses and members of their immediate families residing with and dependent on them, the same immunities from immigration restrictions and aliens' registration as is accorded to diplomatic personnel of comparable rank;

(c) be accorded the same facilities in respect of currency or exchange restrictions as are accorded to diplomatic personnel of comparable rank;

(d) be given, together with their spouses and members of their immediate families residing with and dependent on them, the same repatriation facilities in time of international crisis as are accorded to diplomatic personnel of comparable rank;

(e) have the right to import free of duty their furniture and effects at the time of first arrival to take up their post in the country in question, and, on the termination of their functions in that country, to re-export such furniture and effects free of duty subject in either case to such conditions as the Government of the country in which the right is being exercised may deem necessary;

(f) have the right to import temporarily free of duty their private motor vehicles for their own personal use and subsequently to re-export such vehicles free of duty, subject in either case to such conditions as the Government of the country concerned may deem necessary.

ARTICLE 19. Officials of the Organisation agreed under Article 17 shall be exempt from taxation on the salaries and emoluments paid to them by the Organisation in their capacity as such officials. Any Member State may, however, conclude an arrangement with the Council acting on behalf of the Organisation whereby such Member State will employ and assign to the Organisation all of its nationals (except, if such Member State so desires any not ordinarily resident within its territory) who are to serve on the international staff of the Organisation and pay the salaries and emoluments of such persons from its own funds at a scale fixed by it. The salaries and emoluments so paid may be taxed by such Member State but shall be exempt from taxation by any

other Member State. If such an arrangement is entered into by any Member State and is subsequently modified or terminated, Member States shall no longer be bound under the first sentence of this Article to exempt from taxation the salaries and emoluments paid to their nationals.

ARTICLE 20. In addition to the immunities and privileges specified in Articles 18 and 19, the Executive Secretary of the Organisation, the Co-ordinator of North Atlantic Defence Production, and such other permanent officials of similar rank as may be agreed between the Chairman of the Council Deputies and the Governments of Member States, shall be accorded the privileges and immunities normally accorded to diplomatic personnel of comparable rank.

ARTICLE 21. 1. Experts (other than officials coming within the scope of Articles 18 to 20) employed on missions on behalf of the Organisation shall be accorded the following privileges and immunities so far as is necessary for the effective exercise of their functions while present in the territory of a Member State for the discharge of their duties:

(a) immunity from personal arrest or detention and from seizure of their personal baggage;

(b) in respect of words spoken or written or acts done by them in the performance of their official functions for the Organisation, immunity from legal process;

(c) the same facilities in respect of currency or exchange restrictions and in respect of their personal baggage as are accorded to officials of foreign Governments on temporary official missions;

(d) inviolability for all papers and documents relating to the work on which they are engaged for the Organisation.

2. The Chairman of the Council Deputies shall communicate to the Member States concerned the names of any experts to whom this Article applies.

ARTICLE 22. Privileges and immunities are granted to officials and experts in the interests of the Organisation and not for the personal benefit of the individuals themselves. The Chairman of the Council Deputies shall have the right and the duty to waive the immunity of any official or expert in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the Organisation.

ARTICLE 23. The provisions of Articles 18, 20 and 21, above shall not require any State to grant any of the privileges or immunities referred to therein to any person who is its national, except:

(a) immunity from legal process in respect of words spoken or written or acts done by him in the performance of his official functions for the Organisation;

(b) inviolability for all papers and documents relating to the work on which he is engaged for the Organisation;

(c) facilities in respect of currency or exchange restrictions so far as necessary for the effective exercise of his functions.

PART V.—SETTLEMENT OF DISPUTES

ARTICLE 24. The Council shall make provision for appropriate modes of settlement of:

(a) disputes arising out of contracts or other disputes of a private character to which the Organisation is a party;

(b) disputes involving any official or expert of the Organisation to whom Part IV of this Agreement applies who by reason of his official position enjoys immunity, if immunity has not been waived in accordance with the provisions of Article 22.

PART VI.—SUPPLEMENTARY AGREEMENTS

ARTICLE 25. The Council acting on behalf of the Organisation may conclude with any Member State or States supplementary agreements modifying the provisions of the present Agreement, so far as that State or those States are concerned.

PART VII.—FINAL PROVISIONS

ARTICLE 26. 1. The present Agreement shall be open for signature by Member States of the Organisation and shall be subject to ratification. Instruments of ratification shall be deposited with the Government of the United States of America, which will notify all signatory States of each such deposit.

2. As soon as six signatory States have deposited their instruments of ratification, the present Agreement shall come into force in respect of those States. It shall come into force in respect of each other signatory State, on the date of the deposit of its instrument of ratification.

ARTICLE 27. The present Agreement may be denounced by any Contracting State by giving written notification of denunciation to the Government of the United States of America, which will notify all signatory States of each such notification. The denunciation shall take effect one year after the receipt of the notification by the Government of the United States of America.

In witness whereof the undersigned plenipotentiaries have signed the present Agreement.

Done in Ottawa this twentieth day of September, 1951, in French and in English, both texts being equally authoritative, in a single copy which shall be deposited in the archives of the Government of the United States of America which will transmit a certified copy to each of the signatory States.

**(D) AGREEMENT BETWEEN THE NORTH ATLANTIC COUNCIL AND
THE UNITED STATES GOVERNMENT, LONDON, 29 SEPTEMBER
1951**

Since the Government of the United States desires to enter into an arrangement with the North Atlantic Council, acting on behalf of the North Atlantic Treaty Organization, as provided in Article 19 of the Agreement on the Status of the North Atlantic Treaty Organisation, National Representatives and International Staff, signed at Ottawa, Canada, September 20, 1951, it is, therefore, agreed

by the Government of the United States and the North Atlantic Council Deputies, acting on behalf of the North Atlantic Treaty Organisation, as follows:

1. Whenever the Organisation desires the services of a United States national, it will notify the Deputy United States Representative, North Atlantic Council of: (A) The nature of the position to be filled, (B) The qualifications which an individual must possess to fill the position, and (C) The salary which such individual would receive if employed by the North Atlantic Treaty Organisation. The Organisation may notify the Government of the United States of the name(s) of any individual(s) it deems acceptable for the position.

2. The Government of the United States may assign to the Organisation a United States national from its Government service who is acceptable to the Organisation. The Government of the United States will provide security clearance for the individual concerned.

3. The Government of the United States will pay any and all salaries and emoluments of United States nationals, who are employed by it and assigned to the Organisation, from its own funds at rates determined by the Government of the United States.

4. The Organisation agrees that it will not pay salaries and emoluments to any citizen of the United States.

5. The Organisation will credit to the United States the amounts of salaries and emoluments which would otherwise have been paid by the Organisation to United States nationals and will deduct the total of such credits for each fiscal year from the amount assessed the Government of the United States by the Organisation, in respect of the annual contribution of the Government of the United States for the subsequent fiscal year.

IN WITNESS WHEREOF, This Agreement is executed at London on this 29th day of September, 1951, by Sir F. R. Hoyer Millar, Vice-Chairman of the North Atlantic Council Deputies, on behalf of the North Atlantic Treaty Organisation, and by Charles M. Spofford, United States Deputy Representative to the North Atlantic Council, on behalf of the Government of the United States.

4. Agreements Entered Into by the United States Pursuant to the North Atlantic Treaty

(A) AGREEMENT ON THE DEFENSE OF ICELAND PURSUANT TO THE NORTH ATLANTIC TREATY, REYKJAVIK, 5 MAY 1951

This Agreement came into force in accordance with the terms of Article VIII on 5 May 1951. The text is from U. S. Treaties and other International Acts Series 2266. The Annex to the Agreement, on the Status of United States Personnel and Property, was signed in Reykjavik on 8 May 1951 and entered into force on that date; it appears in U. S. Treaties and other International Acts Series 2295.

A wartime Agreement on the Defense of Iceland by United States Force effected in the form of messages exchanged on 1 July 1941 between the Prime Minister of Iceland and the President of the United States, and ratified by the Icelandic Regent in Council on 10 July 1941, may be found in U. S. Executive Agreement Series 232.

Having regard to the fact that the people of Iceland cannot themselves adequately secure their own defenses, and whereas experience has shown that a coun-

try's lack of defenses greatly endangers its security and that of its peaceful neighbors, the North Atlantic Treaty Organisation has requested, because of the unsettled state of world affairs, that the United States and Iceland in view of the collective efforts of the parties to the North Atlantic Treaty to preserve peace and security in the North Atlantic Treaty area, make arrangements for the use of facilities in Iceland in defense of Iceland and thus also the North Atlantic Treaty area. In conformity with this proposal the following Agreement has been entered into.

ARTICLE I. The United States on behalf of the North Atlantic Treaty Organisation and in accordance with its responsibilities under the North Atlantic Treaty will make arrangements regarding the defense of Iceland subject to the conditions set forth in this Agreement. For this purpose and in view of the defense of the North Atlantic Treaty area, Iceland will provide such facilities in Iceland as are mutually agreed to be necessary.

ARTICLE II. Iceland will make all acquisitions of land and other arrangements required to permit entry upon and use of facilities in accordance with this Agreement, and the United States shall not be obliged to compensate Iceland or any national of Iceland or other person for such entry or use.

ARTICLE III. The national composition of forces, and the conditions under which they may enter upon and make use of facilities in Iceland pursuant to this Agreement, shall be determined in agreement with Iceland.

ARTICLE IV. The number of personnel to be stationed in Iceland pursuant to this Agreement shall be subject to the approval of the Icelandic Government.

ARTICLE V. The United States in carrying out its responsibilities under this Agreement shall do so in a manner that contributes to the maximum safety of the Icelandic people, keeping always in mind that Iceland has a sparse population and has been unarmed for centuries. Nothing in this Agreement shall be so construed as to impair the ultimate authority of Iceland with regard to Icelandic affairs.

ARTICLE VI. The Agreement of October 7, 1946, between the United States and Iceland for interim use of Keflavik Airport [U. S. Treaties and other international Acts Series 1566] shall terminate upon the coming into force of this Agreement whereupon Iceland will assume direction of and responsibility for civil aviation operations at Keflavik Airport. The United States and Iceland will negotiate appropriate arrangements concerning the organisation of the Airport to coordinate the operation thereof with the defense of Iceland.

ARTICLE VII. Either Government may at any time, on notification to the other Government, request the Council of the North Atlantic Treaty Organisation to review the continued necessity for the facilities and their utilization, and to make recommendations to the two Governments concerning the continuation of this Agreement. If no understanding between the two Governments is reached as a result of such request for review within a period of six months from the date of the original request, either Government may at any time thereafter give notice of its intention to terminate the Agreement, and the Agreement shall

then cease to be in force twelve months from the date of such notice. Whenever the contingency provided for in Articles 5 and 6 of the North Atlantic Treaty shall occur, the facilities, which will be afforded in accordance with this Agreement, shall be available for the same use. While such facilities are not being used for military purposes, necessary maintenance work will be performed by Iceland or Iceland will authorize its performance by the United States.

ARTICLE VIII. After signature by the appropriate authorities of the United States and Iceland, this Agreement, of which the English and Icelandic texts are equally authentic, shall come into force on the date of receipt by the Government of the United States of America of a notification from the Government of Iceland of its ratification of the Agreement.

Done at Reykjavík, this fifth day of May 1951.

ANNEX ON THE STATUS OF UNITED STATES PERSONNEL AND PROPERTY

ARTICLE 1. In this annex, the expression "United States Forces" includes personnel belonging to the armed services of the United States and accompanying civilian personnel who are in the employ of such services and are not nationals of nor ordinarily resident in Iceland, all such personnel being in the territory of Iceland in connection with operations under this Agreement.

ARTICLE 2. 1. (a) The United States military courts will on no occasion have jurisdiction in Iceland over nationals of Iceland or other persons who are not subject to the military laws of the United States. (b) It is the duty of members of the United States forces and their dependents in Iceland to respect the laws of Iceland and to abstain from any activity inconsistent with the spirit of this Agreement, and, in particular, from any political activity in Iceland. The United States will take appropriate measures to that end.

2. Subject to the provisions of this Article,

(a) the military authorities of the United States shall have the right to exercise within Iceland all jurisdiction and control conferred on them by the laws of the United States over all persons subject to the military law of the United States.

(b) the authorities of Iceland shall have jurisdiction over the members of the United States forces with respect to offenses committed within Iceland and punishable by the law of Iceland.

3. (a) The military authorities of the United States shall have the right to exercise exclusive jurisdiction over persons subject to the military law of the United States with respect to offenses relating to its security, but not to that of Iceland, and to all acts punishable by the law of the United States, but not by the law of Iceland.

(b) The authorities of Iceland shall have the right to exercise exclusive jurisdiction over members of the United States forces with respect to offenses relating

to the security of Iceland, but not to the security of the United States, and to all acts punishable by the law of Iceland, but not by the law of the United States.

(c) A security offense against Iceland or the United States shall include

1. Treason

2. Sabotage, espionage or violation of any law relating to official secrets of Iceland or the United States, or secrets relating to the national defense of Iceland or the United States.

4. In cases where the right to exercise jurisdiction is concurrent the following rules shall apply:

(a) The military authorities of the United States shall have the primary right to exercise jurisdiction over a member of the United States forces in relation to

1. offenses solely against the property of the United States or offenses solely against the person or property of another member of the United States forces or of a dependent of a member of such force.

2. offenses arising out of any act done in the performance of official duty.

(b) In the case of any other offense the authorities of Iceland shall have the primary right to exercise jurisdiction.

(c) If the United States or Iceland, whichever has the primary right, decides not to exercise jurisdiction, it shall notify the authorities of the United States or Iceland, as the case may be, as soon as practicable. The authorities of the United States or of Iceland, whichever has the primary right, shall give sympathetic consideration to a request from the authorities of the United States or Iceland, as the case may be, for a waiver of its rights in cases where the authorities of the other country considers such waiver to be of particular importance.

5. A death sentence shall not be carried out in Iceland by the authorities of the United States.

6. (a) The authorities of the United States and Iceland shall assist each other in the arrest of members of the United States forces and their dependents who commit offenses in Iceland and in handing them over to the authorities which are to exercise jurisdiction in accordance with the above provisions.

(b) The authorities of Iceland shall notify promptly the military authorities of the United States of the arrest in Iceland of any members of the United States forces or of their dependents.

(c) The custody of an accused over whom Iceland is to exercise jurisdiction shall, if he is in the hands of the authorities of the United States, remain in the hands of such authorities until he is charged by Iceland.

7. (a) If a member of the United States forces is accused of an offense the appropriate authorities of the United States and Iceland will render mutual assistance in the necessary investigation into the offense and trial of the offender.

(b) If the case is one within the jurisdiction of the United States, the authorities of Iceland will themselves carry out the necessary arrangements to secure the presence of and obtain evidence from Icelandic nationals and other persons in Iceland, except from members of the United States forces and their dependents,

outside the agreed areas. In cases where it is necessary under the laws of the United States for the authorities of the United States to obtain themselves information from Icelandic nationals, the Icelandic authorities will make all possible arrangements to secure the attendance of such nationals for interrogation in the presence of Icelandic authorities at places designated by them.

The military authorities will, in a similar manner, carry out the collection of evidence from members of the United States forces and their dependents in the case of an offense within the jurisdiction of the Icelandic authorities.

(c) The authorities of the United States and of Iceland shall notify one another of the results of all investigations and trials in cases where there are concurrent rights to exercise jurisdiction.

8. Where a member of the United States force or dependent of a member thereof has been tried by the authorities of the United States and has been acquitted, or has been convicted and is serving or has served his sentence, he may not be tried again for the same offense by the authorities of Iceland.

9. Whenever a member of the United States force or a dependent of a member thereof is prosecuted under the jurisdiction of Iceland, he shall be entitled:

(a) to a prompt and speedy trial;

(b) to be informed in advance of trial of the specific charge or charges made against him;

(c) to be confronted with the witnesses against him;

(d) to have compulsory process for obtaining witnesses in his favor, if within the jurisdiction of Iceland;

(e) to defense by a qualified advocate or counsel of his own choice, or, failing such choice, counsel appointed to conduct his defense;

(f) if he considers it necessary, to have the services of a competent interpreter; and

(g) to communicate with a representative of his government and, when the rules of the court permit, to have such a representative present at his trial.

10. The United States forces shall have the right to police the agreed areas and to take all appropriate measures to insure the maintenance of discipline, order and security in such areas. Outside the agreed areas, military members of the United States forces shall be employed in police duties subject to arrangements with the authorities of Iceland and jointly with those authorities, and insofar as such employment is necessary to maintain discipline and order among the members of the United States forces and the dependents of members thereof.

The Icelandic authorities with whom members of the United States forces may be so employed shall have paramount authority with respect to the person or property of Icelandic nationals and other persons of non-Icelandic nationality, except members of the United States forces and their dependents and non-Icelandic employees of contractors of the United States, involved in any matter concerning the maintenance of order and discipline referred to above outside the agreed areas.

ARTICLE 3. 1. Iceland shall either:

(a) accept as valid, without driving test or fee, the driving permit or license or military driving permit issued by the United States or a sub-division thereof to a member of the United States forces or his dependents, or

(b) issue its own driving permit or license without test or fee to a member of the United States forces or his dependents who holds a driving permit or license issued by the United States or a sub-division thereof.

2. The United States authorities, in cooperation with Icelandic authorities, will issue appropriate instructions to members of the United States forces and their dependents, fully informing them of the Icelandic traffic laws and regulations and requiring strict compliance therewith.

ARTICLE 4. 1. Military members of the United States forces shall normally wear a uniform.

2. Service vehicles of the United States forces shall carry, in addition to the registration number, a distinctive nationality mark.

3. The United States authorities will deliver to the appropriate Icelandic authorities a list of all vehicles, the registration numbers and the names of the owners thereof.

ARTICLE 5. United States forces in Iceland may carry arms as required in the performance of official duties within the agreed areas. United States forces may carry arms outside the agreed areas in Iceland only in the performance of official duties or in case of military necessity, unless otherwise agreed by the appropriate authorities of Iceland.

ARTICLE 6. 1. Members of the United States forces and their dependents may purchase locally goods necessary for their own consumption and such services as they need under the same conditions as nationals of Iceland.

2. Goods purchased locally which are required for the subsistence of the United States forces will normally be purchased through such agency of the Government of Iceland as may be designated by Iceland in order to avoid such purchase having an adverse effect on the economy of Iceland.

3. In regard to paragraphs 1 and 2 above, the competent authorities of Iceland will indicate when necessary any articles the purchase of which should be restricted or forbidden, and the United States authorities will give due consideration to such request.

4. The United States desires to employ qualified Icelandic civilians to the maximum extent practicable in connection with activities under this Agreement. To the extent that Iceland shall consent to the employment of Icelandic civilians by the United States such employment shall be effected with the assistance of and through a representative or representatives designated by Iceland. The conditions of employment and work, in particular wages, supplementary payments and conditions for the protection of workers, shall be those laid down by Icelandic law and practices.

5. The United States and Iceland will cooperate in suppressing and preventing any illegal activities and in preventing any undue interference with the Icelandic economy.

ARTICLE 7. 1. The temporary presence in Iceland of a member of the United States forces or of any dependent of such member, or of any non-Icelandic national employed in Iceland in connection with the operations under this Agreement and present in Iceland only by reason of such employment, shall constitute neither residence nor domicile therein and shall not of itself subject him to taxation in Iceland, either on his income or on his property the presence of which in Iceland is due to his temporary presence there, nor, in the event of his death, shall it subject his estate to levy of death duties.

2. No national of the United States or corporation organized under the laws of the United States, resident in the United States, shall be liable to pay Icelandic income tax in respect of any income derived under a contract with the United States in connection with operations under this Agreement.

3. No tax or other charge of any nature shall be levied or assessed on material, equipment, supplies, or goods, including personal effects, household goods, privately owned automobiles and clothing which has been brought into Iceland in connection with operations under this Agreement. No such tax or charge shall be levied or assessed on property procured in Iceland by United States authorities for the use of the United States or its agents or for the use of personnel present in Iceland only in connection with operations under this Agreement.

ARTICLE 8. 1. Save as provided expressly to the contrary in this Agreement, members of the United States forces as well as their dependents shall be subject to the laws and regulations administered by the customs authorities of Iceland. In particular the customs authorities of Iceland shall have the right, under the general conditions laid down by the laws and regulations of Iceland, to search members of the United States forces and their dependents and non-Icelandic nationals who are contractors or employees of a contractor of the United States and to examine their luggage and vehicles and to seize articles pursuant to such laws and regulations.

2. Official documents under official seal shall not be subject to customs inspection. Couriers, whatever their status, carrying these documents must be in possession of an individual movement order. This movement order shall show the number of dispatches carried and certify that they contain only official documents.

3. The authorities of the United States forces may import free of duty the equipment for their forces and reasonable quantities of provisions, supplies and other goods for the exclusive use of the forces and their dependents and for non-Icelandic nationals who are contractors or employees of a contractor of the United States. This duty-free importation shall be subject to the deposit, at the customs office for the place of entry, together with the customs documents, of a certificate signed by an official of the United States forces authorized for that purpose. The list of the officials authorized to sign the certificates, as well as specimens of their signatures and the stamps used, shall be sent to the customs administration of Iceland.

4. Members of the United States forces and their dependents may at the time of first arrival to take up service in Iceland import free of duty for the term of such service their personal effects and furniture.

5. Members of the United States forces and their dependents may import temporarily free of duty their private motor vehicles for their personal use.

6. Imports, other than those dealt with in paragraphs 4 and 5 of this Article, effected by members of the United States forces and their dependents, including shipments through United States Post Offices, are not, by reason of this Article, entitled to any exemption from duty or other conditions.

7. Goods which have been imported duty-free under paragraphs 3, 4 or 5 above:

(a) may be re-exported freely, provided that, in the case of goods imported under paragraph 3, a certificate, issued in accordance with that paragraph, is presented to the customs office. The customs authorities, however, may verify that goods re-exported are as described in the certificate, if any, and have in fact been imported under the conditions of paragraphs 3, 4, or 5 as the case may be.

(b) shall not be disposed of in Iceland by way of sale, gift or barter. However, in particular cases such disposal may be authorized on conditions imposed by the customs authorities (for instance on payment of duty and tax and compliance with the requirements of the controls of trade and exchange). The United States authorities will prescribe and enforce to the extent possible regulations designed to prevent the sale or supply to individual members of the United States forces and their dependents and non-Icelandic nationals who are employees of a contractor of the United States of quantities of goods imported into Iceland by the United States authorities by any means free of charge which would be in excess of the personal requirements of such personnel and which, in consultation with Icelandic authorities, are determined to be most likely to become items of gift, barter or sale in Iceland.

8. Goods purchased in Iceland shall be exported therefrom only in accordance with the regulations in force in Iceland.

9. Special arrangements shall be made by Iceland so that fuel, oil and lubricants for use in service vehicles, aircraft and vessels of the United States forces and non-Icelandic contractors of the United States, may be delivered free of all duties and taxes.

10. In paragraphs 1-8 of this Article "duty" means customs duties and all other duties and taxes payable on importation or exportation, as the case may be.

11. The customs or fiscal authorities of Iceland may, as a condition of the grant of any customs or fiscal exemption or concession provided for in this Agreement, require such conditions to be observed as they may deem necessary to prevent abuse.

ARTICLE 9. 1. In order to prevent offenses against customs and fiscal laws and regulations, the customs and fiscal authorities of the United States and Iceland shall assist each other in the conduct of inquiries and the collection of evidence.

2. The authorities of the United States forces shall render all assistance within

their power to insure that articles liable to seizure by, or on behalf of, the customs or fiscal authorities of Iceland are handed to those authorities.

3. The authorities of the United States forces shall render all assistance within their power to insure the payment of duties, taxes and penalties payable by members of the United States forces or their dependents.

4. Service vehicles and articles belonging to the United States forces seized by the authorities of Iceland in connection with an offense against its customs or fiscal laws or regulations shall be handed over to the appropriate authorities of the United States forces.

ARTICLE 10. The United States forces and their members and dependents shall comply with the foreign exchange regulations of Iceland. Special arrangements shall be entered into between the appropriate authorities of Iceland and the United States to obviate the use of United States currency in paying personnel and to permit United States forces to acquire Icelandic currency at official rates of exchange and to convert such currency in reasonable amounts on leaving Iceland.

ARTICLE 11. The Government of Iceland will extend to the forces of any Government signatory to the North Atlantic Treaty, when such forces are stationed in Iceland, the same privileges extended to the United States forces by the preceding Articles of this Annex upon the request of the Government concerned.

ARTICLE 12. 1. (a) The United States waives all claims against the Government of Iceland for damage to any property owned by it and used by the United States forces and for injury to or death of members of the United States forces caused by an employee of the Government of Iceland.

(b) The Government of Iceland waives all claims against the United States for damage to property owned by it in any of the agreed areas and will make compensation and waive all claims against the United States for injury or death of an employee of the Government of Iceland occurring in such area while such employee is therein by reason of his duties, as determined by representatives of the United States and Iceland to be appointed by each, when such damage, injury or death is caused by a member of the United States forces. The Government of Iceland also waives all claims for damage to any property owned by it and for injury to or death of an employee of the Government of Iceland occurring outside any of the agreed areas caused by a member of the United States forces when it is determined by representatives of the United States and Iceland, to be appointed by each, that such property or employee was, at the time of said damage, injury or death, being utilized or employed in any respect with carrying out the provisions of this Agreement.

(c) The United States and Iceland waive all their claims against each other for damage to a vessel owned by the United States or Iceland while such vessel is being used in connection with the operation of this Agreement, wherever such damage shall occur, and whether it is caused by a member of the United States forces or by an employee of the Government of Iceland. Claims for maritime salvage by the United States or Iceland shall be waived, provided that the vessel or cargo salvaged was owned by the United States or Iceland as the case may be, in connection with the operation of this Agreement.

(d) For the purpose of this paragraph the expressions "owned by the United States," "owned by Iceland" or "owned by the United States or Iceland" include a vessel on bare boat charter to the United States or Iceland, as the case may be or requisitioned by either government on bare boat terms or otherwise in the possession of the United States or Iceland (except to the extent that the risk of loss or liability is borne by some person other than the United States or Iceland or its insurer).

2. Claims (other than contractual claims) arising out of acts done by members of the United States forces and causing damage to, or loss or destruction of, the property of persons or bodies in Iceland or the injury or death of individuals therein except as provided in the preceding paragraph, shall be settled by Iceland in accordance with the following provisions:

(a) Claims shall be filed, considered and settled or adjudicated in accordance with the laws and regulations of Iceland with respect to claims arising from acts of its own employees.

(b) Iceland may settle any such claims, and payment of the amount agreed upon or determined by adjudication shall be made by Iceland in its currency.

(c) Such payment, or the final adjudication of the competent tribunals of Iceland denying payment, shall be binding and conclusive upon the United States and Iceland.

(d) Every claim paid by Iceland shall be communicated to the United States military authorities together with full particulars.

(e) The cost incurred in satisfying claims pursuant to the preceding subparagraphs shall be distributed between the United States and Iceland as follows:

(1) Where the United States alone is responsible, the amount awarded or adjudged shall be distributed in the proportion of 15% chargeable to Iceland and 85% chargeable to the United States.

(2) Where members of the United States forces and nationals of Iceland contribute to the damage, the amount awarded or adjudged shall be distributed equally between the United States and Iceland.

(3) Every half-year, a statement of the sums paid by Iceland in the course of the half-yearly period in respect of every case shall be sent to the United States together with a request for reimbursement. Such reimbursement shall be made within the shortest possible time, in the currency of Iceland.

(f) A member of the United States forces shall not be subject to any suit with respect to claims arising by reason of an act done which is within the purview of this paragraph.

3. Claims presented by a national of any country at war with the United States or by an ally of such enemy country and claims resulting from action by the enemy or resulting directly or indirectly from any act by the United States forces engaged in combat are not considered to be within the provisions of this Article.

4. The military authorities of the United States and the appropriate officials of Iceland shall cooperate in the procurement of evidence for a fair hearing and disposal of claims in regard to which the United States and Iceland are concerned.

5. The United States undertakes to procure the legislation necessary to implement its responsibilities as set forth in this Article.

DONE at Reykjavik, May 8, 1951.

**(B) AGREEMENT CONCERNING THE DEFENSE OF GREENLAND,
COPENHAGEN, 27 APRIL 1951**

This Agreement, signed on behalf of the United States and Denmark on 27 April 1951 in Copenhagen, entered into force (under Article XIV) upon notice of Danish parliamentary approval, given 8 June 1951. The text is from U. S. Treaties and other International Acts Series 2292. Under the provisions of Article XII, the wartime Agreement relating to the Defense of Greenland, signed between the two countries on 9 April 1941, with an accompanying exchange of notes (U. S. Executive Agreement Series 204) ceased to be in force from 8 June 1951.

A Mutual Defense Assistance Agreement was concluded by the United States and Denmark on 27 January 1950, coming into force the same day (U. S. Treaties and other International Acts Series 2011), and a related Agreement on Redistributable and Excess Property was effected by exchange of notes at Copenhagen on 16 November 1951 and 28 April 1952 (U. S. Treaties and other International Acts Series 2726).

The Government of the United States of America and the Government of the Kingdom of Denmark,

being parties to the North Atlantic Treaty signed at Washington on April 4, 1949,

having regard to their responsibilities thereunder for the defense of the North Atlantic Treaty area,

desiring to contribute to such defense and thereby to their own defense in accordance with the principles of self-help and mutual aid, and

having been requested by the North Atlantic Treaty Organization (NATO) to negotiate arrangements under which armed forces of the parties to the North Atlantic Treaty Organization may make use of facilities in Greenland in defense of Greenland and the rest of the North Atlantic Treaty area,

have entered into an Agreement for the benefit of the North Atlantic Treaty Organization in terms as set forth below:

ARTICLE I. The Government of the United States of America and the Government of the Kingdom of Denmark, in order to promote stability and well-being in the North Atlantic Treaty area by uniting their efforts for collective defense and for the preservation of peace and security and for the development of their collective capacity to resist armed attack, will each take such measures as are necessary or appropriate to carry out expeditiously their respective and joint responsibilities in Greenland, in accordance with NATO plans.

ARTICLE II. In order that the Government of the United States of America as a party to the North Atlantic Treaty may assist the Government of the Kingdom of Denmark by establishing and/or operating such defense areas as the two Governments, on the basis of NATO defense plans, may from time to time agree to be necessary for the development of the defense of Greenland and the rest of the North Atlantic Treaty area, and which the Government of the Kingdom of Denmark is unable to establish and operate single-handed, the two Governments in respect of the defense areas thus selected, agree to the following:

(1) The national flags of both countries shall fly over the defense areas.

(2) Division of responsibility for the operation and maintenance of the defense areas shall be determined from time to time by agreement between the two Governments in each case.

(3) In cases where it is agreed that responsibility for the operation and maintenance of any defense area shall fall to the Government of the United States of America, the following provisions shall apply:

(a) The Danish Commander-in-Chief of Greenland may attach Danish military personnel to the staff of the commanding officer of such defense area, under the command of an officer with whom the United States commanding officer shall consult on all important local matters affecting Danish interests.

(b) Without prejudice to the sovereignty of the Kingdom of Denmark over such defense area and the natural right of the competent Danish authorities to free movement everywhere in Greenland, the Government of the United States of America, without compensation to the Government of the Kingdom of Denmark, shall be entitled within such defense area and the air spaces and waters adjacent thereto:

(i) to improve and generally to fit the area for military use;

(ii) to construct, install, maintain, and operate facilities and equipment, including meteorological and communications facilities and equipment, and to store supplies;

(iii) to station and house personnel and to provide for their health, recreation and welfare;

(iv) to provide for the protection and internal security of the area;

(v) to establish and maintain postal facilities and commissary stores;

(vi) to control landings, take-offs, anchorages, moorings, movements, and operation of ships, aircraft, and water-borne craft and vehicles, with due respect for the responsibilities of the Government of the Kingdom of Denmark in regard to shipping and aviation;

(vii) to improve and deepen harbors, channels, entrances, and anchorages.

(c) The Government of the Kingdom of Denmark reserves the right to use such defense area in cooperation with the Government of the United States of America for the defense of Greenland and the rest of the North Atlantic Treaty area, and to construct such facilities and undertake such activities therein as will not impede the activities of the Government of the United States of America in such area.

(4) In cases where it is agreed that responsibility for the operation and maintenance of any defense area shall fall to the Government of the Kingdom of Denmark, the following provisions shall apply:

(a) The Government of the United States of America may attach United States military personnel to the staff of the commanding officer of such defense area, under the command of an officer with whom the Danish commanding officer shall consult on all important local matters affecting United States interests pursuant to the North Atlantic Treaty.

(b) The Government of the United States of America, without compensation to the Government of the Kingdom of Denmark, may use such defense area in cooperation with the Government of the Kingdom of Denmark for the defense of Greenland and the rest of the North Atlantic Treaty area, and may construct such facilities and undertake such activities therein as will not impede the activities of the Government of the Kingdom of Denmark in such area.

ARTICLE III. (1) The operation of the United States naval station at Grønnedal will be transferred to the Government of the Kingdom of Denmark as soon as practicable and thereupon the Government of the Kingdom of Denmark will take over the utilization of the United States installations at Grønnedal on the following terms:

(a) United States ships, aircraft and armed forces shall have free access to Grønnedal with a view to the defense of Greenland and the rest of the North Atlantic Treaty area. The same right of access shall be accorded to the ships, aircraft and armed forces of other Governments parties to the North Atlantic Treaty as may be required in fulfillment of NATO plans.

(b) The Government of the Kingdom of Denmark will assume responsibility for the operation, to the same extent as hitherto, of the meteorological reporting service at Grønnedal, except for such future changes as might be mutually agreed upon. The Government of the Kingdom of Denmark likewise will assume responsibility for the maintenance of all United States buildings and equipment at Grønnedal.

(c) Details regarding the use by the Government of the Kingdom of Denmark of United States property remaining at Grønnedal, including provisions for reasonable protection thereof, the servicing of United States ships and aircraft, and the disposition of fuels and other stores, will be the subject of separate negotiations between representatives of the two Governments. It is agreed in this connection that, provided notification is given in each case to the Danish Commander-in-Chief of Greenland, the Government of the Kingdom of Denmark will have no objection to inspections of United States property remaining at Grønnedal, so long as that station is used by the Government of the Kingdom of Denmark.

(2) If the obligations of either party under the North Atlantic Treaty should necessitate activities at Grønnedal in excess of what the Government at the Kingdom of Denmark is able to accomplish alone, it is agreed that the Government of the Kingdom of Denmark will request this station shall become a defense area according to the provisions of Article II of this Agreement.

ARTICLE IV. In connection with activities for the defense of Greenland and the rest of the North Atlantic Treaty area, the defense areas will, so far as practicable, be made available to vessels and aircraft belonging to other Governments parties to the North Atlantic Treaty and to be armed forces of such Governments.

ARTICLE V. (1) Under such conditions as may be agreed upon, the Government of the Kingdom of Denmark will, so far as practicable, provide such meteorological and communications services in Greenland as may be required to facilitate operations under this Agreement.

(2) The Government of the Kingdom of Denmark agrees, so far as practicable, to make and furnish to the Government of the United States of America topographic, hydrographic, coast and geodetic surveys and aerial photographs, etc. of Greenland as may be desirable to facilitate operations under this Agreement. If the Government of the Kingdom of Denmark should be unable to furnish the required data, the Government of the United States of America, upon agreement with the appropriate Danish authorities, may make such surveys or photographs. Copies of any such surveys or photographs made by the Government of the United States of America shall be furnished to the Government of the Kingdom of Denmark. The Government of the United States of America may also, upon similar agreement, make such technical and engineering surveys as may be necessary in the selection of defense areas.

(3) In keeping with the provisions of Article VI of this Agreement, and in accordance with general rules mutually agreed upon and issued by the appropriate Danish authority in Greenland, the Government of the United States of America may enjoy, for its public vessels and aircraft and its armed forces and vehicles, the right of free access to and movement between the defense areas throughout Greenland, including territorial waters, by land, air and sea. This right shall include freedom from compulsory pilotage and from light or harbor dues. United States aircraft may fly over and land in any territory in Greenland, including the territorial waters thereof, without restriction except as mutually agreed upon.

ARTICLE VI. The Government of the United States of America agrees to cooperate to the fullest degree with the Government of the Kingdom of Denmark and its authorities in Greenland in carrying out operations under this Agreement. Due respect will be given by the Government of the United States of America and by United States nationals in Greenland to all the laws, regulations and customs pertaining to the local population and the internal administration of Greenland, and every effort will be made to avoid any contact between United States personnel and the local population which the Danish authorities do not consider desirable for the conduct of operations under this Agreement.

ARTICLE VII. (1) All materials, equipment, and supplies required in connection with operations under this Agreement, including food, stores, clothing, and other goods intended for use or consumption by members of United States armed forces and civilians employed by or under a contract with the Government of the United States of America for the performance of work in Greenland in connection with operations under this Agreement, and members of their families, and the personal and household effects of such military and civilian personnel, shall be permitted entry into Greenland free of inspection, customs duties, excise taxes or other charges; and no export tax shall be charged on such materials, equipment, supplies or effects in the event of shipment from Greenland.

(2) The aforesaid military and civilian personnel, and members of their families, shall be exempt from all forms of taxation, assessments or other levies by the Government of the Kingdom of Denmark or by Danish authorities in Green-

land. No national of the United States of America or corporation organized under the laws of the United States of America shall be liable to pay income tax to the Government of the Kingdom of Denmark or to the Danish authorities in Greenland in respect of any profits derived under a contract made with the Government of the United States of America in connection with operations under this Agreement or any tax in respect of any service or work for the Government of the United States of America in connection with operations under this Agreement.

ARTICLE VIII. The Government of the United States of America shall have the right to exercise exclusive jurisdiction over those defense areas in Greenland for which it is responsible under Article II (3), and over any offenses which may be committed in Greenland by the aforesaid military or civilian personnel or by members of their families, as well as over other persons within such defense areas except Danish nationals, it being understood, however, that the Government of the United States of America may turn over to the Danish authorities in Greenland for trial any person committing an offense within such defense areas.

ARTICLE IX. The laws of the Kingdom of Denmark shall not operate to prevent the admission to or departure from the defence areas or other localities in Greenland of any military or civilian personnel whose presence in such defense areas or other localities in Greenland is required in connection with operations under this Agreement, or of members of their families.

ARTICLE X. Upon the coming into force of a NATO agreement to which the two Governments are parties pertaining to the subjects involved in Articles VII, VIII, and IX of this Agreement, the provisions of the said articles will be superseded by the terms of such agreement to the extent that they are incompatible therewith. If it should appear that any of the provisions of such NATO agreement may be inappropriate to the conditions in Greenland, the two Governments will consult with a view to making mutually acceptable adjustments.

ARTICLE XI. All property provided by the Government of the United States of America and located in Greenland shall remain the property of the Government of the United States of America. All removable improvements and facilities erected or constructed by the Government of the United States of America in Greenland and all equipment, material, supplies and goods brought into Greenland by the Government of the United States of America may be removed from Greenland free of any restriction, or disposed of in Greenland by the Government of the United States of America after consultation with the Danish authorities, at any time before the termination of this Agreement or within a reasonable time thereafter. It is understood that any areas of facilities made available to the Government of the United States of America under this Agreement need not be left in the condition in which they were at the time they were thus made available.

ARTICLE XII. Upon the coming into force of this Agreement, the Agreement Relating to the Defense of Greenland between the two Governments signed in Washington on April 9, 1941, shall cease to be in force.

ARTICLE XIII. (1) Nothing in the Agreement is to be interpreted as affecting command relationships.

(2) Questions of interpretation which may arise in the application of this Agreement shall be submitted to the Minister of Foreign Affairs of the Kingdom of Denmark and to the United States Ambassador to Denmark.

(3) The two Governments agree to give sympathetic consideration to any representations which either may make after this Agreement has been in force a reasonable time, proposing a review of this Agreement to determine whether modifications in the light of experience or amended NATO plans are necessary or desirable. Any such modifications shall be by mutual consent.

ARTICLE XIV. (1) This Agreement shall be subject to parliamentary approval in Denmark. It shall come into force on the day on which notice of such parliamentary approval is given to the Government of the United States of America.

(2) This Agreement, being in implementation of the North Atlantic Treaty, shall remain in effect for the duration of the North Atlantic Treaty.

Signed in Copenhagen in duplicate in the English and Danish languages, both texts being equally authentic, this twenty-seventh day of April 1951, by the undersigned duly authorized representatives of the Government of the United States of America and the Government of the Kingdom of Denmark.

(C) AGREEMENT REGARDING MILITARY FACILITIES IN THE AZORES, LISBON, 6 SEPTEMBER 1951

This agreement between Portugal and the United States entered into force on the date of signature, 6 September 1951, at Lisbon. The text is from 27 Department of State Bulletin (1952), p. 14. By the terms of Article 12, an Agreement of 2 February 1948 on facilities for the transit of American military aircraft (18 Department of State Bulletin (1948), p. 358) ceased to have validity. This 1948 Agreement was the latest of a series of Portuguese agreements permitting the maintenance of Allied air bases in the Azores; the history is traced in 18 Department of State Bulletin (1948), p. 839.

On 5 January 1951, the United States concluded a Mutual Defense Assistance Agreement, accompanied by four Annexes, with Portugal (U. S. Treaties and other International Acts Series 2187), which was followed by an Agreement on the Disposition of Surplus Equipment and Material effected by exchange of notes at Lisbon on 16 June and 9 July 1952 (U. S. Treaties and other International Acts Series 2674).

The Portuguese Government and the Government of the United States of America:

Having in mind the doctrine and obligations arising from Articles 3 and 5 of the North Atlantic Treaty signed in Washington April 4, 1949;

Resolved, in accordance with the preamble of that Treaty to unite their efforts for the common defense and for the preservation of peace and security;

Considering the necessity of executing in peacetime the measures of military preparation necessary to the common defense, in conformity with plans approved by the nations signatory to the referred to Treaty;

Taking into consideration that according to the provisions adopted in the North Atlantic Treaty Organization, the area of the Azores directly interests

Portugal and the United States and that between them they must establish agreements for the determination and utilization of the facilities which it is possible for the first of the mentioned Governments to grant in those islands;

Agree as follows:

ARTICLE 1. The Portuguese Government grants to the Government of the United States in case of war in which they are involved during the life of the North Atlantic Treaty and within the framework and by virtue of the responsibilities assumed thereunder the use of facilities in the Azores which will be provided for in technical arrangements to be concluded by the Ministers of Defense of the two Governments.

Whenever reference is made in the text of this Agreement to technical arrangements, it is understood that such reference has to do with the technical arrangements to be agreed upon by the Ministers of Defense of the two Governments, and which are hereby authorized.

ARTICLE 2. The Governments of Portugal and of the United States, in technical and financial collaboration, and in harmony with technical arrangements to be agreed upon, will construct new installations and enlarge and improve those existing for the purpose of preparing and equipping the agreed facilities in the Azores with what is necessary for the execution of the missions for which under the defense plans they are charged with in time of war.

(1) These preparatory works shall include, among other things, the storage of oil, munitions, spare parts and any supplies considered necessary for the purposes in view.

(2) The term for the execution of what is set forth in the body of the present Article and in subparagraph 1 will run from the date of signature of this Agreement until the first of September 1956 with a period of grace of four months.

ARTICLE 3. All constructions and materials incorporated in the soil will from the start be considered property of the Portuguese State without prejudice to the recognized right of the United States to use such constructions and materials in time of war or in time of peace to the extent and in the manner provided in this Agreement, and to raze and remove them for its account at the end of the term referred to in Article 1 or if the hypothesis mentioned in Article 8 should eventuate, all in accordance with technical arrangements to be agreed upon.

At the end of the period referred to in Article 1, as well as in the hypothesis provided for in Article 8, and without prejudice to the technical arrangements referred to above, the United States may raze or remove for its account technical equipment belonging to it and not necessary to the future functioning of the bases, the Portuguese Government making equitable payment for that which it desires to acquire and which may be ceded to it.

ARTICLE 4. Having in mind their eventual use in harmony with the provisions of Article 1, the Portuguese Government will undertake the maintenance of the facilities in all the period subsequent to the withdrawal of the American personnel, as stipulated in Article 7.

ARTICLE 5. For the purpose of the previous Article, and in accordance with what will be agreed upon between the Defense Ministers of the two Governments, the Government of the United States will provide facilities necessary for the apprenticeship and training of Portuguese personnel having in mind the perfect functioning of the bases as well as facilitate duly qualified American personnel and material both deemed indispensable for the missions charged to the military forces in the Azores, in time of peace as well as in time of war, in harmony with the plans established by the competent organs of the North Atlantic Treaty Organization. This American personnel in the period subsequent to the evacuation of the bases in time of peace will be under Portuguese direction.

ARTICLE 6. During the period of the preparation of the bases, in conformity with Article 2 subparagraph 2, and during the period of evacuation granted under Article 7, the transit of American military aircraft through the Lagens Airdrome continues to be permitted and there will be authorized on that base, during the same periods, the training of United States aviation and naval personnel, and United States military and civilian personnel stationed there may be increased up to the necessary. There will also be permitted the eventual visit to the airdrome of Santa Maria of some military aircraft which will be provided for by technical arrangements to be concluded between the Ministers of Defense of the two Governments.

These arrangements will fix the number and missions of the personnel employed and will define the legal statute to which they will be subject, as well as the exemptions which the personnel and material will enjoy in time of peace and in time of war.

ARTICLE 7. For a term beyond the periods in which the facilities should be utilized either in time of war or under conditions provided for in subparagraph 2 of Article 2, there will be granted by the Portuguese Government between six months and a year, in accordance with the circumstances and difficulties of the occasion, for the complete evacuation of the American personnel and their accompanying equipment, which will take place whether or not it has been possible to carry out the provisions of Article 5.

Stockpiling of materials and supplies necessary to the preparation for war, in accordance with the reasonable exigencies of the international situation, and in accordance with technical arrangements to be agreed upon, is authorized during the term referred to in Article 1.

ARTICLE 8. The Government of the United States may at any moment renounce the concessions granted under the present Agreement in which case the obligations assumed in this respect by the Portuguese Government will likewise cease.

ARTICLE 9. In case of war the facilities granted may be utilized by the rest of the North Atlantic Treaty Organisation members. The conditions for the utilization of the facilities by the members of the NATO will be established by agreement between the competent Portuguese and American authorities.

The Portuguese Government reserves the right to extend to the Government of His Britannic Majesty in the United Kingdom facilities analogous to those granted under this Agreement.

ARTICLE 10. The Portuguese Government will authorize, after the period of evacuation fixed in Article 7, the transit through Lagens of military aircraft of the United States carrying out missions within the framework of the North Atlantic Treaty Organisation. This transit will be carried out by the utilization of the Portuguese services in the referred to Base, whether or not it has been possible to carry out the provisions of Article 5.

For beyond the period in question, and from time to time, as may be agreed between the Ministers of Defense of the two countries in the face of circumstances and in each case, the Lagens base may be utilized for the exercise of combined training of the appropriate forces of NATO. The non-Portuguese personnel necessary to effect this training will remain in the Azores only for the time necessary for each operation.

ARTICLE 11. Nothing in the technical arrangements to be agreed upon by the Ministers of Defense of the two Governments may be understood in a contrary sense to the provisions of the present Defense Agreement.

ARTICLE 12. This Agreement will enter into effect on the date of its signature and on the same date the Agreement of February 2, 1948, will cease to have validity.

In testimony thereof the respective plenipotentiaries of the two Governments have placed their signatures and affixed their seals to the present Agreement.

Done in Lisbon in two copies, in Portuguese and English, both texts having equal value, this sixth day of September, 1951.

(D) DEFENSE AGREEMENT BETWEEN THE GOVERNMENTS OF THE UNITED STATES AND SPAIN, MADRID, 26 SEPTEMBER 1953

On 16 July 1951, an exploratory conversation between the Governments of the United States and Spain was held in Madrid to ascertain what contribution might be made by Spain to common defense against aggression. Following this meeting, economic and military surveys were made in Spain, and in April 1952 formal negotiations were opened.

On 26 December 1953, the United States concluded three bilateral agreements with Spain: a Defense Agreement on the construction and use of military facilities in Spain by the United States, an Economic Aid Agreement (with an Annex of interpretative notes), and a Mutual Defense Assistance Agreement (with an Annex on fiscal relief). All three agreements entered into force upon the date of signature. The texts are to be found in Department of State Press Release No. 519 (1953) and in 29 Department of State Bulletin (1953), p. 435.

The Defense Agreement is reproduced below. It is in force for a ten-year period, with two automatic extensions of five years each unless a specified termination procedure is followed (Article 5), and thus approximates the duration of the North Atlantic Treaty.

PREAMBLE. Faced with the danger that threatens the western world, the Governments of the United States and Spain, desiring to contribute to the maintenance of international peace and security through foresighted measures which will increase their capability, and that of the other nations which dedicate their

efforts to the same high purposes to participate effectively in agreements for self defense;

Have agreed as follows:

ARTICLE I. In consonance with the principles agreed upon in the Mutual Defense Assistance Agreement, the Government of the United States and of Spain consider that the contingencies with which both countries may be faced indicate the advisability of developing their relations upon a basis of continued friendship, in support of the policy of strengthening the defense of the West. This policy shall include:

1. On the part of the United States, the support of Spanish defense efforts for agreed purposes by providing military end item assistance to Spain during a period of several years to contribute to the effective air defense of Spain and to improve the equipment of its military and naval forces, to the extent to be agreed upon in technical discussions in the light of the circumstances, and with the co-operation of the resources of Spanish industry to the extent possible. Such support will be considered as in the case of other friendly nations by the priorities and limitations due to the international commitments of the United States and the exigencies of the international situation and will be subject to Congressional appropriations.

2. In consequence of the above stated premises and for the same agreed purposes, the Government of Spain authorizes the Government of the United States, subject to terms and conditions to be agreed, to develop, maintain and utilize for military purposes, jointly with the Government of Spain, such areas and facilities in territory under Spanish jurisdiction as may be agreed upon by the competent authorities of both Governments as necessary for the purposes of this agreement.

3. In granting assistance to Spain within the policy outlined above, as the preparation of the agreed areas and facilities progresses, the Government of the United States will satisfy, subject to the provisions of paragraph one, the minimum requirements for equipment necessary for the defense of Spanish territory, to the end that should a moment requiring the wartime utilization of the areas and facilities arrive from this moment, the requirements are covered to the extent possible as regards the air defense of the territory and the equipment of the naval units; and that the armament and equipment of the Army units be as far advanced as possible.

ARTICLE II. For the purposes of this agreement and in accordance with technical arrangements to be agreed upon between the competent authorities of both Governments, the Government of the United States is authorized to improve and fit agreed areas and facilities for military use, as well as to undertake the necessary construction in this connection in cooperation with the Government of Spain, to station and house therein the necessary military and civilian personnel and to provide for their security, discipline and welfare; to store and maintain custody of provisions, supplies, equipment and material; and to maintain and operate the facilities and equipment necessary in support of such areas and personnel.

ARTICLE III. The areas which, by virtue of this Agreement, are prepared for joint utilization will remain under Spanish flag and command, and Spain will assume the obligations of adopting the necessary measures for the external security. However, the United States may, in all cases, exercise the necessary supervision of United States personnel, facilities and equipment.

The time and manner of wartime utilization of said areas and facilities will be as mutually agreed upon.

ARTICLE IV. The Government of Spain will acquire, free of all charge and servitude, the land which may be necessary for all military purposes and shall retain the ownership of the ground and of the permanent structures which may be constructed thereon. The United States Government reserves the right to remove all other constructions and facilities established at its own expense when it is deemed convenient by the Government of the United States or upon the termination of this Agreement; in both cases the Spanish Government may acquire them, after previous assessment, whenever they are not installations of a classified nature.

The Spanish state will be responsible for all claims made against the United States Government by a third party, in all cases referring to the ownership and utilization of the above-mentioned land.

ARTICLE V. The present Agreement will become effective upon signature and will be in force for a period of ten years, automatically extended for two successive periods of five years each unless the termination procedure hereafter outlined is followed.

At the termination of the first ten years or of either of the two extensions of five years, either of the two Governments may inform the other of its intention to cancel the Agreement, thus initiating a consultation period of six months. In the event concurrence is not reached on extension, this Agreement will terminate one year after the conclusion of the period of consultation.

In witness whereof the respective representatives, duly authorized for the purpose, have signed the present agreement.

DONE at Madrid, in duplicate, in the English and Spanish languages, both texts authentic, this twenty-sixth day of September, 1953.

**(E) AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND
THE KINGDOM OF GREECE CONCERNING MILITARY FACILITIES,
ATHENS, 12 OCTOBER 1953**

This Agreement entered into force on the date of signature, 12 October 1953. The text is taken from U. S. Department of State Press Release No. 557 (1953).

Greece became a party to the North Atlantic Treaty on 18 February 1952. On 28 February 1953 in Ankara, a Treaty of Friendship and Collaboration was signed on behalf of Greece, Turkey, and Yugoslavia (not a party to the North Atlantic Treaty). This Treaty was ratified by Greece and Yugoslavia on 23 May 1953 and by Turkey on 18 May 1953, whereupon it entered into force. It consists of ten articles, providing for a yearly meeting of the three Foreign Ministers, a common examination of security problems by the general staffs, development of economic and cultural relations, refraining from intervention in each other's internal affairs or joining alliances against each other. Rights of Greece and Turkey under the North Atlantic Treaty remained unaffected. The treaty is open to accession by other states, and is con-

cluded for a five-year period, after which it can be denounced subject to one year's notice. In April 1954 negotiations were in progress to expand the Ankara Treaty into a military alliance.

PREAMBLE. The United States of America and the Kingdom of Greece being parties of the North Atlantic Treaty, which was signed at Washington on April 14, 1949, and having regard to their respective responsibilities under the aforesaid treaty to provide for the security and defense of the North Atlantic Treaty area, and under Article 3 thereof to develop their collective capacity to resist armed attack, have entered into the following agreement:

ARTICLE I. 1. The Government of Greece hereby authorizes the Government of the United States of America, subject to the terms and conditions set forth in this agreement and to technical arrangements between appropriate authorities of the two governments, to utilize such roads, railways and areas, and to construct, develop, use and operate such military and supporting facilities in Greece as appropriate authorities of the two governments shall from time to time agree to be necessary for the implementation of, or in furtherance of, approved NATO plans. The construction, development, use and operation of such facilities shall be consistent with recommendations, standards and directives from the North Atlantic Treaty Organization (NATO) where applicable.

2. For the purpose of this agreement and in accordance with technical arrangements to be agreed between the appropriate authorities of the two governments, the Government of the United States of America may bring in, station and house in Greece United States personnel. United States Armed Forces and equipment under their control may enter, exit, circulate within and overfly Greece and its territorial waters subject to any technical arrangements that may be agreed upon by the appropriate authorities of the two governments. These operations shall be free from all charges, duties and taxes.

3. The priorities, rates of consumption and charges established for the United States Armed Forces for such services as electric power, sewerage, water supply, communications systems, and freight and personnel transportation by rail, will be no less favorable than those established for the Greek Armed Forces.

ARTICLE II. 1. Equipment, materials and supplies imported by or on behalf of the Government of the United States of America in connection with the construction, development, operation or maintenance of agreed installations and facilities and the official support of the United States Forces, civilian components, and their dependents shall be exempt from all duties, taxes, customs restrictions and inspections.

2. All removable facilities erected or constructed by or on behalf of the Government of the United States of America at its sole expense and all equipment, materials and supplies brought into Greece or purchased in Greece by or on behalf of the Government of the United States of America in connection with the construction, development, operation and maintenance of agreed installations and facilities will remain the property of the Government of the United States of America and may be removed from Greece. No such removal or disposition will be undertaken which will prejudice the mission of the NATO.

3. The United States of America will be compensated by the Greek Government for the residual value, if any, of the facilities acquired, developed and constructed at United States expense under the present agreement and not removed or otherwise disposed of in accordance with Paragraph 2 of this article, including those facilities developed or constructed jointly by the United States and Greek funds, when such facilities or any part thereof are no longer needed by the military forces of the United States. The amount and manner of compensation shall be in accordance with agreements to be made between the appropriate authorities of the contracting parties. Negotiations as to the method for treating the residual value of these facilities will be without prejudice to agreements within the NATO.

ARTICLE III. 1. For the implementation of this agreement the provisions of Article I, Paragraphs 3A and 3B of Legislative Decree 694 of May 7, 1948, and the memorandum of understanding between the Government of Greece and the Government of the United States dated February 4, 1953, shall be applied in accordance with terms mutually agreed.

2. The United States Armed Forces in Greece under this agreement may also establish and continue to use or operate United States Military Post Offices.

ARTICLE IV. The present agreement will come into force from the date on which it is signed, and will remain in effect during the period of the validity of the North Atlantic Treaty.

DONE at Athens, in duplicate, in the Greek and English languages, the two texts having an equal authenticity, this twelfth day of October 1953.

5. Protocol to the North Atlantic Treaty on Guarantees Given by the Parties to the North Atlantic Treaty to the Members of the European Defence Community, Paris, 27 May 1952

NOT IN FORCE ON 1 APRIL 1954

This Protocol was signed at Paris on 27 May 1952, the day of signature of the European Defence Community at Paris and the day after the signature of the Convention on Relations between the Three Powers and the Federal Republic of Germany, with its related conventions, at Bonn. The Protocol was produced by the same negotiations, and is an integral part of the structure created by these agreements. It is a counterpart to the Additional Protocol annexed to the Treaty constituting the European Defence Community Treaty concerning Guaranties of Assistance from the Member States of the Community to the States Parties to the North Atlantic Treaty. The liaison between the North Atlantic Treaty Organisation and the European Defence Community is also governed by the Protocol to the Defence Community Treaty concerning Relations between the two organisations. None of these agreements were in force on 1 April 1954.

By the terms of Article II of this Protocol, its entry into force requires not only the acceptance of each of the parties, but also notification that the Treaty constituting the European Defence Community has entered into force.

The text of the Protocol appears in U. S. Senate Executives Q and R, 82d Congress, 2d session (1952), p. 23, and in British Parliamentary Papers, Miscellaneous No. 9 (1952), Cmd. 8562, Annex B.

The Parties to the North Atlantic Treaty, signed at Washington on 4th April 1949,

Being satisfied that the creation of the European Defence Community set up under the Treaty signed at Paris on 27th May 1952 will strengthen the North Atlantic Community and the integrated defence of the North Atlantic area, and promote the closer association of the countries of Western Europe, and

Considering that the Parties to the Treaty setting up the European Defence Community have signed a Protocol, which will enter into force at the same time as the present Protocol, giving to the Parties to the North Atlantic Treaty guarantees equivalent to the guarantees contained in Article 5 of the North Atlantic Treaty;

Agree as follows:

ARTICLE I. An armed attack.

(i) on the territory of any of the members of the European Defence Community in Europe or in the area described in Article 6 (i) of the North Atlantic Treaty or

(ii) on the forces, vessels or aircraft of the European Defence Community when in the area described in Article 6 (ii) of the said Treaty, shall be considered an attack against all the Parties to the North Atlantic Treaty, within the meaning of Article 5 of the said Treaty, and Article 5 shall apply accordingly.

The expression "member of the European Defence Community" in paragraph (i) of this Article means any of the following States which is a member of the Community, namely, Belgium, France, the German Federal Republic, Italy, Luxembourg, and the Netherlands.

ARTICLE II. The present Protocol shall enter into force as soon as each of the Parties has notified the Government of the United States of America of its acceptance and the Council of the European Defence Community has notified the North Atlantic Council of the entry into force of the Treaty setting up the European Defence Community. The Government of the United States of America shall inform all the parties to the North Atlantic Treaty of the date of the receipt of each such notification and of the date of the entry into force of the present Protocol.

ARTICLE III. The present Protocol shall remain in force for so long as the North Atlantic Treaty and the Treaty setting up the European Defence Community remain in force and the Parties to the latter Treaty continue to give, in respect of themselves and the European Defence forces, guarantees to the Parties to the North Atlantic Treaty equivalent to the guarantees contained in the present Protocol.

ARTICLE IV. The present Protocol, of which the English and French texts are equally authentic, shall be deposited in the Archives of the Government of the United States of America. Duly certified copies thereof shall be transmitted by that Government to the Governments of all the Parties to the North Atlantic Treaty and of all the Parties to the Treaty setting up the European Defence Community.

In witness whereof, the undersigned plenipotentiaries have signed the present protocol.

DONE at Paris, the 27th day of May 1952.

B. THE EUROPEAN DEFENSE COMMUNITY

The creation of this Community by treaty was intended to provide organs through which the manpower and economic strength of the Federal Republic of Germany could be applied in the common defense of Europe, without creating separate German national armed forces and without waiting for a German Peace Treaty or the unification of Germany. It also follows the creation of the European Coal and Steel Community as a second step in the effort to increase European unity and cooperation by common institutions.

The Assembly of the Defense Community (Article 33 of the Treaty) is to be that of the Coal and Steel Community, except that three further delegates each are to be elected from France, Italy, and the Federal Republic of Germany. The same structure was used for the *ad hoc* Assembly set up in September 1952 for the purpose of drafting a Treaty to establish a European Political Community. The Court of the Defence Community is the Court of the Coal and Steel Community, whose members took oath of office in December 1952. This Court would also be the Court of the Political Community, under the terms of the draft Treaty.

The European Defense Community is linked to the North Atlantic Treaty Organization by Protocols concerning Guarantees of Assistance, on both sides, as well as by the Protocol on Relations between the two organizations. The duration of the Community being set at 50 years by Article 128 of the Treaty, while a party to the North Atlantic Treaty may withdraw by denunciation after 20 years, the signatories to the Defense Community Treaty expressed in a Common Declaration made at the time of signature the formal wish that the provisions concerning the duration of the North Atlantic Treaty might be adapted to those of Article 128.

In the section below, the Treaty with its accompanying protocols is followed by a Convention on the Status of European Defense Forces and the Tax and Commercial Régime of the European Defense Community, signed on the same day, which requires separate ratification; by a Treaty between the Member States and the United Kingdom, also signed on the same day; and by the texts of six additional protocols proposed by the French Government since the signing of the Treaty. These protocols have been adopted by the Interim Committee of the Community (set up by one of the original Protocols to the Treaty) and have been approved by the North Atlantic Council, but have not yet received the formal signatures of the Foreign Ministers of the Treaty signatories, nor has the procedure for their ratification within the respective countries been determined.

1. Tripartite Declaration, Paris, 27 May 1952

On the day after the signing in Bonn of the four Conventions with the Federal Republic of Germany, treated in the preceding section of this volume, the Foreign Ministers of the Three Powers, being then in Paris to attend the signature of the European Defence Community treaty and the Protocol to the North Atlantic Treaty on Guarantees, issued the Declaration reproduced below, which repeat further guarantees to the Community.

The text appears in 26 Department of States Bulletin (1952), p. 897, and in British Parliamentary Papers, Miscellaneous No. 9 (1952), Cmd. 8562, Annex C.

The Governments of France, the United Kingdom of Great Britain and Northern Ireland, and the United States of America have signed conventions with the German Federal Republic which will establish a new relationship with

that country. These conventions, as well as the treaties for a European Defense Community and a European Coal and Steel Community, of which France is a signatory, provide a new basis for uniting Europe and for the realization of Germany's partnership in the European Community. They are designed to prevent the resurgence of former tensions and conflicts among the free nations of Europe and any future revival of aggressive militarism. They make possible the removal of the special restraints hitherto imposed on the Federal Republic of Germany and permit its participation as an equal partner in Western defense.

These conventions and treaties respond to the desire to provide by united efforts for the prosperity and security of Western Europe. The Governments of the United Kingdom and the United States consider that the establishment and development of these institutions of the European Community correspond to their own basic interests and will therefore lend them every possible cooperation and support.

Moreover, Western Defense is a common enterprise in which the Governments of the United Kingdom and the United States are already partners through membership of the North Atlantic Treaty Organization.

These bonds are now strengthened by the system of reciprocal guarantees agreed to between the member States of the European Defense Community, between these member States and the United Kingdom and also between these member States and the member States of the North Atlantic Treaty Organization.

For these various reasons, including the fact that these new guarantees will apply to the States concerned only as members of one or the other of these organizations, the Governments of the United Kingdom and the United States have an abiding interest, as has the Government of France, in the effectiveness of the treaty creating the European Defense Community and in the strength and integrity of that Community. Accordingly, if any action from whatever quarter threatens the integrity or unity of the Community, the two Governments will regard this as a threat to their own security. They will act in accordance with Article 4 of the North Atlantic Treaty. Moreover, they have each expressed their resolve to station such forces on the continent of Europe, including the Federal Republic of Germany, as they deem necessary and appropriate to contribute to the joint defense of the North Atlantic Treaty area, having regard to their obligations under the North Atlantic Treaty, their interest in the integrity of the European Defense Community, and their special responsibilities in Germany.

The security and welfare of Berlin and the maintenance of the position of the three powers there are regarded by the three powers as essential elements of the peace of the free world in the present international situation. Accordingly, they will maintain armed forces within the territory of Berlin as long as their responsibilities require it. They therefore reaffirm that they will treat any attack against Berlin from any quarter as an attack upon their forces and themselves.

These new security guarantees supersede the assurances contained in the

declaration of the Foreign Ministers of France, the United Kingdom and the United States at New York on September 19th, 1950.

DEAN ACHESON
SCHUMAN
ANTHONY EDEN

PARIS, *May 27th, 1952.*

2. Treaty Constituting the European Defence Community, Paris, 27 May 1952

NOT IN FORCE ON 1 APRIL 1954

The signatories to this Treaty, the Federal Republic of Germany, Belgium, France, Italy, Luxembourg, and the Netherlands, are the members of the European Coal and Steel Community, which came into existence on 25 July 1952, and of the projected European Political Community, which on 1 April 1954 existed only in the form of an unsigned draft treaty. The Defense Community Treaty was produced by the same negotiations which led to the signing in Bonn of the Convention on Relations between the Three Powers and the Federal Republic of Germany and the agreements associated with it, on the preceding day (26 May 1952), and also to the signing in Paris on 27 May 1952 of the Protocol to the North Atlantic Treaty on Guarantees given by the Parties to the North Atlantic Treaty to the Members of the European Defense Community. All these documents constitute an integrated whole. By the terms of Article 11 of the Bonn Convention and Article II of the Protocol on Guarantees, their entry into force must be preceded by the entry into force of the Defense Community Treaty, as provided in its Articles 131 and 132.

The Treaty was not yet in force on 1 April 1954. The legislatures of the Federal Republic of Germany, the Netherlands, Belgium, and Luxembourg (on 7 April) had completed their share of the process of ratification, and the President of the Federal Republic of Germany had signed the legislative act in that country, but no instruments of ratification had been deposited with the Government of the French Republic. Questions have arisen of the compatibility of the system set up by the Treaty with the constitutions of the member States. Such objections have been met in the Netherlands by constitutional amendment, and similar developments are under discussion in Belgium and Luxembourg. In the Federal Republic of Germany, two changes were made in the Basic Law of 23 May 1949, one stipulating that the Defense Community Treaty and the Bonn Conventions were not incompatible with it (a question which had already been placed before the Supreme Court of the Republic at Karlsruhe), and the other authorizing the Government of the Federal Republic to raise military forces to meet their obligations under the Treaty. On 23 March 1954 the Allied High Commissioners gave the necessary consent to these amendments, on the condition, as far as the second change was concerned, that no legislative or administrative steps would be taken to that end before the Treaty entered into force. This condition had been agreed to beforehand by the Government of the Federal Republic.

The Treaty is accompanied by a large number of Protocols and other agreements, which are reproduced immediately following it. The texts printed below are taken from United States Senate Executives Q and R, 82d Congress, 2d session (1952) and corrected from the official French text published in *Traktatenblad van het Koninkrijk der Nederlanden*, Jaargang 1952, Nos. 119-132. Under the terms of Article 130, authentic texts in languages other than the original French are to be established after the Council of the Community has assumed its functions.

The President of the Federal Republic of Germany, His Majesty the King of the Belgians, the President of the French Republic, the President of the

Italian Republic, Her Royal Highness the Grand Duchess of Luxembourg, Her Majesty the Queen of the Netherlands,

Resolved to contribute to the maintenance of peace, particularly by ensuring the defense of Western Europe against any aggression, in cooperation with the free nations, in the spirit of the United Nations Charter, and in close liaison with organizations having the same purpose;

Considering that as complete an integration as possible, compatible with military requirements, of the human and material elements gathered in their Defense Forces within a supranational European organization is the most appropriate means of reaching this goal with all the necessary rapidity and effectiveness;

Certain that such integration will result in the most rational and economic utilization of the resources of their countries, as a result, particularly, of the establishment of a common budget and of common armament programs;

Determined to ensure in this way the development of their military power without prejudicing social progress;

Desirous to safeguard the spiritual and moral values which are the common heritage of their peoples, and convinced that within a common army constituted without discrimination among the participating States national patriotisms, far from being weakened, can only become consolidated and reconciled in a broader framework;

Conscious that they are thus taking a new and essential step on the road to the formation of a united Europe;

Have decided to create a European Defense Community and to this end have designated as plenipotentiaries:

* * * * * * *

Who, after having exchanged their full powers and found them in good and due form, have agreed upon the provisions which follow.

TITLE I—FUNDAMENTAL PRINCIPLES

Chapter I—The European Defense Community

ARTICLE 1. By the present Treaty the High Contracting Parties institute among themselves a European Defense Community, supranational in character, consisting of common institutions, common armed Forces and a common budget.

ARTICLE 2. 1. The objectives of the Community shall be exclusively defensive.

2. Consequently, under the conditions provided for in the present Treaty, it shall ensure the security of the member States against any aggression by participating in Western Defense within the framework of the North Atlantic Treaty and by accomplishing the integration of the defense forces of the member States and the rational and economic utilization of their resources.

3. Any armed aggression directed against any one of the member States in Europe or against the European Defense Forces shall be considered as an attack directed against all of the member States.

The member States and the European Defense Forces shall furnish to the State or Forces thus attacked all military and other aid and assistance in their power.

ARTICLE 3. 1. The Community shall accomplish the goals assigned to it by employing the least burdensome and most efficient methods. It shall intervene only to the extent necessary for the fulfillment of its mission and with due respect to public liberties and the fundamental rights of the individual. It shall see to it that the proper interests of member States are taken into consideration to the full extent compatible with its own essential interests.

2. In order to enable the Community to accomplish its mission, the member States shall place at its disposal appropriate contributions determined under the provisions of Article 87 and 94 below.

ARTICLE 4. The Community shall pursue its action in cooperation with the free nations and with all organizations whose goals are the same as that of the Community.

ARTICLE 5. The Community shall cooperate closely with the North Atlantic Treaty Organization.

ARTICLE 6. The present Treaty does not involve any discrimination among the member States.

ARTICLE 7. The Community shall have juridical personality.

In its international relations, the Community shall enjoy the juridical capacity necessary to the exercise of its functions and the attainment of its ends.

In each of the member States, the Community shall enjoy the most extensive juridical capacity with which legal entities of the nationality of the country in question are endowed. Specifically, it may acquire and transfer real and personal property, and may sue and be sued in its own name.

The Community shall be represented by its institutions, each one of them acting within the framework of its own powers and responsibilities.

ARTICLE 8. 1. The institutions of the Community shall be:

—A Council of Ministers, hereinafter called the Council.

—A Common Assembly, hereinafter called the Assembly.

—A Commissariat of the European Defense Community, hereinafter called the Commissariat.

—A court of Justice, hereinafter called the Court.

2. Without prejudice to the provisions of Article 125 below, the structure of these institutions as established by the present Treaty shall remain in effect until it is replaced by a new one, resulting from the establishment of a federal or confederal organization as provided in Article 38 below.

Chapter II—The European Defense Forces

ARTICLE 9. The Armed Forces of the Community, hereinafter called “European Defense Forces” shall be composed of contingents placed at the disposal of the Community by the member States with a view to their fusion under the conditions provided for in the present Treaty.

No member State shall recruit or maintain national armed forces aside from those provided for in Article 10 below.

ARTICLE 10. 1. The member States may recruit and maintain national armed forces intended for use in the non-European territories with respect to which they assume defense responsibilities, as well as units stationed in their countries which are required for the maintenance of these forces and for their relief.

2. The member States may also recruit and maintain national armed forces required for international missions assumed by them in Berlin, in Austria or by virtue of a decision of the United Nations. At the termination of these missions, these troops shall be either disbanded or placed at the disposal of the Community. Relief for these troops may be effected, with the consent of the competent Supreme Commander responsible to the North Atlantic Treaty Organization, by exchange with units composed of contingents originating from the member States in question which belong to the European Defense Forces.

3. In each member State elements intended as a bodyguard for the Chief of State shall remain national.

4. The member States may dispose of national naval Forces, on the one hand for the protection of non-European territories for which they assume defense responsibilities as mentioned in Section 1 of this Article and for the protection of communications with and among such territories, and on the other hand to fulfill the obligations falling to them as a result of assumption by them of international missions mentioned in Section 2 of this Article or as a result of agreements entered into within the framework of the North Atlantic Treaty prior to the entry into effect of the present Treaty.

5. The total volume of national armed forces provided for in this Article, including support units, shall not be so great as to compromise the participation of each member State in the European Defense Forces as determined by agreement among the Governments of the member States.

The Member States shall have the right to exchange individual personnel between the contingents placed by them at the disposal of the European Defense Forces and the forces which are not a part thereof, provided no diminution in the European Defense Forces occurs as a result.

ARTICLE 11. Police forces and forces of gendarmerie, suitable exclusively for the maintenance of internal order, may be recruited and maintained on the territories of the member States.

The national character of these forces is not affected by the present Treaty.

The volume and nature of such forces existing on the territories of member States shall be such as not to exceed the limits imposed by their mission.

ARTICLE 12. 1. In case of disturbances or threatened disturbances within the territory of a member State in Europe, such part of the contingents supplied by such State to the European Defense Forces as is necessary to meet the situation shall, on its request, the Council having been informed, be placed at its disposal by the Commissariat.

The conditions under which these elements may be employed shall be determined by the legislation in force in the territory of the member State making the request.

2. In case of disaster or calamity requiring immediate aid, elements of the European Defense Forces, which are in a position to be of use, shall give their aid without regard to their national origins.

ARTICLE 13. In case of a serious emergency affecting a non-European territory for which a member State assumes responsibilities of defense, such part of the contingents supplied by such State to the European Defense Forces as is necessary to meet the emergency shall, on its request and with the agreement of the competent Supreme Commander responsible to the North Atlantic Treaty Organization, be placed at its disposal by the Commissariat, the Council having been informed. The contingents thus released shall cease to be subject to the authority of the Community until such time as they are once again placed at its disposal when they are no longer needed to deal with the emergency.

The military, economic and financial implications of the withdrawal of contingents provided for in this Article shall, in each case, be examined and settled by the Commissariat with the concurrence of the Council given by a two-thirds majority vote.

ARTICLE 14. In case an international mission to be accomplished outside the territory defined in Section 1, Article 120 is entrusted to a member State, such part of the contingents supplied by such State to the European Defense Forces as is necessary to accomplish the mission shall, on its request and with the agreement of the competent Supreme Commander responsible to the North Atlantic Treaty Organization, be placed at its disposal by the Commissariat with the concurrence of the Council given by two-thirds majority vote. The contingents thus released shall cease to be subject to the authority of the Community until such time as they are once again placed at its disposal when they are no longer needed for the accomplishment of a mission herein provided for.

The provisions of the second paragraph of Article 13 above shall be applicable.

ARTICLE 15. 1. The European Defense Forces shall consist of conscripted personnel and of professional personnel serving for a long term by voluntary enlistment.

2. The European Defense Forces shall be integrated in accordance with the organic provisions of Articles 68, 69 and 70 below.

They shall wear a common uniform.

They shall be organized according to types defined in the Military Protocol. Such organization may be modified by unanimous decision of the Council.

3. The contingents destined to make up the units of the European Defense Forces shall be furnished by the member States in accordance with a plan to be established by agreement among the Governments concerned. This plan may be revised in accordance with the provisions of Article 44 below.

ARTICLE 16. The internal defense of the territories of the member States against attacks of any nature having military ends and provoked or carried out

by an external enemy shall be ensured by homogeneous formations of European status, which shall be specialized in each country in accordance with the particular defense mission required by its territory, and the operational command of which shall be exercised as provided in Article 18 below.

ARTICLE 17. The protection of the civilian population (civil defense) shall be ensured by each of the member States.

ARTICLE 18. 1. The competent Supreme Commander responsible to the North Atlantic Treaty Organization shall, except as provided in Section 3 of this Article, be empowered to satisfy himself that the European Defense Forces are organized, equipped, trained and prepared for use in a satisfactory manner.

As soon as they are ready for use, the European Defense Forces shall, except as provided in Section 3 of this Article, be at the disposal of the competent Supreme Commander responsible to the North Atlantic Treaty Organization, who shall exercise with respect to them the powers and responsibilities accruing to him under his terms of reference and shall, in particular, submit to the Community his needs as regards the articulation and deployment of these Forces; the plans corresponding to these needs shall be executed in accordance with the provisions of Article 77 below.

The European Defense Forces shall receive technical directives from the appropriate bodies of the North Atlantic Treaty Organization within the framework of the military competence of such bodies.

2. During wartime, the competent Supreme Commander of the North Atlantic Treaty Organization shall exercise with regard to the Forces provided for above the full powers and responsibilities of Supreme Commanders, such as these are conferred upon him by his terms of reference.

3. In the case of units of the European Defense Forces assigned to internal defense and to the protection of the maritime approaches to the territories of the member States, the authorities which shall command and employ such units shall be determined either by North Atlantic Treaty Organization conventions concluded within the framework of the North Atlantic Treaty or by agreements between the North Atlantic Treaty Organization and the Community.

4. If the North Atlantic Treaty should cease to be in effect before the present Treaty, the member States shall, by agreement among themselves, decide upon the authority to which the command and employment of the European Defense Forces shall be entrusted.

TITLE II—THE INSTITUTIONS OF THE COMMUNITY

Chapter I—The Commissariat

ARTICLE 19. The Commissariat, with a view to carrying out the tasks assigned to it by virtue of the present Treaty, shall be vested with executive and supervisory powers as provided in the present Treaty.

ARTICLE 19 BIS. The Commissariat shall assume its functions as of the appointment of its members.

ARTICLE 20. 1. The Commissariat shall be composed of nine members appointed for six years and chosen for their general competence.

Only nationals of the member States may be members of the Commissariat. It may not include more than two members of the same nationality.

Members shall be eligible for reappointment.

The number of members of the Commissariat may be reduced by unanimous decision of the Council.

2. In the discharge of their duties, the members of the Commissariat shall neither solicit nor accept instructions from any Government. They will abstain from all conduct incompatible with the supranational character of their functions.

Each member State agrees to respect this supranational character and to make no effort to influence the members of the Commissariat in the execution of their task.

The members of the Commissariat shall not exercise any other professional activity during their terms of office.

For three years immediately following the termination of his term of office, no former member of the Commissariat shall engage in any professional activity which the Court, before which he or the Council may have brought the question, may declare to be incompatible with obligations resulting from his tenure of office because of its connection with the functions of such office. In case of violation of this provision, the Court may decree the forfeiture of the pension rights of the persons concerned.

ARTICLE 21. 1. The Governments of the member States shall appoint the members of the Commissariat by agreement among themselves.

2. The members appointed for the first time following the entry of the Treaty into effect shall hold office for a period of three years following their appointment.

In case a vacancy should occur during this first period for one of the reasons set forth in Article 22 below, such vacancy shall be filled in accordance with the provisions of Section 1 of this Article.

The same procedure shall apply to the general reappointment rendered necessary in case Section 2 of Article 36 below should be applied.

3. At the expiration of the initial period of three years, a general reappointment shall take place.

4. Afterwards, one-third of the members of the Commissariat shall be reappointed every two years.

Immediately after the general reappointment provided for in Section 3 of this Article, the Council shall determine by lot the members whose terms of office shall end respectively after the first and after the second two-year periods.

5. If the members of the Commissariat should vacate their offices pursuant to the provisions of Section 2, Article 36, below, the provisions of Sections 3 and 4 of this Article shall be applicable.

ARTICLE 22. Aside from regular reappointments, terms of office of individual members of the Commissariat may be ended by death, resignation or removal.

A deceased, resigned or removed member shall be replaced, for the remaining period of his term of office, in accordance with the provisions of Article 21

above. There shall be no replacement if the remaining period of such member's terms of office comes to less than three months.

ARTICLE 23. Members of the Commissariat who no longer fulfill the conditions necessary to the exercise of their functions or who have committed serious offenses may be removed from office by the Court on petition of the Council or of the Commissariat.

In such a case, the Council, by unanimous vote, may temporarily suspend members of the Commissariat and provide for their replacement until such time as the Court shall have acted.

ARTICLE 24. 1. Decisions of the Commissariat are taken by a majority of members present. The President shall cast tie-breaking votes. Nevertheless, no decision may be taken by fewer than four affirmative votes.

2. The internal regulations shall fix the quorum. The quorum shall consist of no fewer than five members.

3. Should the Council, pursuant to the provisions of Section 1 of Article 20 decide to reduce the number of members of the Commissariat, it shall, under the same conditions, appropriately modify the figures set in the preceding Sections of this Article.

ARTICLE 25. 1. The Governments of the member States shall appoint the President of the Commissariat from among its membership by agreement among themselves.

The Presidents' term of office shall be four years. He shall be eligible for reappointment. His term of office may end under the same circumstances as those of members of the Commissariat.

2. The President shall not be included in any determination by lot which could result in abridging his term of office as President by causing the expiration of his term of office as a member of the Commissariat.

When the President is chosen from among members of the Commissariat already in office, the length of his term of office as a member of the Commissariat shall be extended until the expiration of his term of office as President.

3. Except in the case of a general reappointment the President shall be designated after consultation of the members of the Commissariat.

ARTICLE 25 BIS. 1. The term of office of the first President shall end after three years.

ARTICLE 26. 1. The Commissariat shall establish general organization regulations which will determine principally:

a. On the basis of the principle of collegiate responsibility, the categories of decisions which should be taken collectively by the Commissariat and those which might be delegated to members of the Commissariat to be taken individually within their respective fields of competence.

b. The distribution of the tasks of the Commissariat among its members, bearing in mind the necessity for a stable structure while at the same time leaving open the possibility of changes which experience may demonstrate to be necessary; this distribution shall not necessarily correspond to the number of members of the Commissariat.

2. Within the framework of these regulations:

- a. The Commissariat shall determine the respective duties of its members.
- b. The President
shall coordinate the exercises of these duties,
shall insure the execution of decisions of the Commissariat, and
shall be responsible for the administration of the services.

In the case and under the conditions provided for in Article 123 below, the President may be temporarily vested with special powers.

ARTICLE 27. In the exercise of its powers, the Commissariat shall take decisions, make recommendations and issue opinions.

Decisions shall be binding in all their details.

Recommendations shall be binding with respect to the objectives which they specify, but shall leave to those to whom they are directed the choice of appropriate means for attaining these objectives.

Opinions shall not be binding.

In cases in which the Commissariat is empowered to issue a decision, it may limit itself to making a recommendation.

ARTICLE 28. All decisions and recommendations as well as all opinions of the Commissariat shall be published or registered in accordance with rules to be established by the Council.

Decisions, recommendations or opinions of the Commissariat directed to the Government of a member State shall be addressed to the authority designated for this purpose by such State.

ARTICLE 29. The Commissariat shall report to the Council at periodic intervals.

It shall supply the Council with information requested of it by the Council and shall undertake studies at its request.

The Commissariat and the Council shall exchange information and have reciprocal consultations.

ARTICLE 30. The Commissariat shall have at its disposal the civilian and military personnel necessary to permit it to assume all the tasks assigned to it by the present Treaty.

The services which the Commissariat establishes to this end, civilian as well as military, shall be responsible to it by the same authority and on the same level and in the same manner.

ARTICLE 31. 1. Ranks higher than Commander of a basic unit of homogenous nationality shall be conferred by the Commissariat with the unanimous concurrence of the Council.

2. For a temporary period, ranks in units of homogenous nationality of the European Defense Forces, and all other ranks, shall be conferred, at the option of each member State:

either by the appropriate national authority upon the recommendation of the Commissariat,

or by the Commissariat upon recommendation coming through the appropriate chain of command, after consultation with national authorities.

3. (a) Assignments of Commanders of basic units, of general officers to posts involving the exercise of authority over elements of more than one nationality, and assignments to certain high positions with the Commissariat designated by the Council, shall be made by the Commissariat with the unanimous concurrence of the Council.

(b) All other military assignments shall be made by the Commissariat, having due regard for the recommendations of appropriate command echelons.

4. Appointments of civilian heads of services directly responsible to the Commissariat shall be made by the latter with the unanimous concurrence of the Council.

ARTICLE 32. The Commissariat shall ensure that all necessary liaison with the member States, with other States, and in general, with all international organizations whose cooperation is needed in carrying out the objectives of the present Treaty.

Chapter II—The Assembly

ARTICLE 33. 1. The Assembly of the European Defense Community is the Assembly provided for in Articles 20 and 21 of the Treaty of April 18, 1951 establishing the European Coal and Steel Community, completed, as regards the German Federal Republic, France and Italy, by three further delegates each, who shall be elected under the same conditions and for the same terms as the other delegates, and whose first terms of office shall expire at the same time as theirs.

The Assembly so completed shall exercise the powers conferred on it by the present Treaty. If it deems it necessary, it may elect its own President and officials and draw up its own internal regulations.

2. If the Conference provided for in the last paragraph of Article 38 below has not reached an agreement within one year after its convocation, the member States by agreement among themselves shall proceed to a revision of the provisions of Section I of this present Article without waiting for the Conference to finish its work.

ARTICLE 34. The Assembly shall hold an annual session. It shall meet in regular session the last Tuesday in October. The length of this session shall not exceed one month.

The Assembly may be convened in an extraordinary session at the request of the Commissariat, the Council, the President of the Assembly or the majority of its members, or, in the case provided for in Article 46 below, at the request of a member State.

ARTICLE 34 BIS. The Assembly shall meet one month after the date on which the Commissariat shall have assumed its functions; it shall be called into session by the Commissariat. The provisions of Article 34 relative to the duration of regular sessions of the Assembly shall not be applicable to the first session.

As soon as it meets, the Assembly shall be empowered to perform the duties assigned to it by the present Treaty, with the exception of voting on a motion

of censure provided for in Section 2 of Article 36 below. Such a vote may come only at the end of one year following the date on which the Commissariat shall have assumed its functions.

ARTICLE 35. The members of the Commissariat may attend all sessions of the Assembly. The President or any members of the Commissariat designated by the Commissariat for this purpose, shall be heard upon their request. The Commissariat shall reply, orally or in writing, to questions which are put by the Assembly or by its members.

The members of the Council may attend all sessions and shall be heard on their request.

ARTICLE 36. 1. The Commissariat shall each year make to the Assembly a general report concerning the former's activity, which shall be presented one month before the opening of the regular session. The Assembly shall discuss this report and may formulate comments and express its wishes or suggestions.

2. If a motion of censure concerning the operations of the Commissariat is presented to the Assembly, a vote may be taken thereon only after a period of not less than three days following the introduction of such motion, and such vote shall be by open ballot.

If the motion of censure is adopted by two-thirds of the members present and voting, representing a majority of the total membership, the members of the Commissariat shall resign in a body. They shall continue to carry out current business until their replacement in accordance with Article 21 above.

ARTICLE 37. The Assembly shall adopt its own internal rules of procedure by vote of a majority of its membership.

Acts of the Assembly shall be published when and as provided by the Assembly.

ARTICLE 38. 1. Within the period provided for in Section 2 of this Article, the Assembly shall study:

(a) the creation of an Assembly of the European Defense Community elected on a democratic basis;

(b) the powers which might be granted to such an Assembly; and

(c) the modifications which should be made in the provisions of the present Treaty relating to the other institutions of the Community, particularly with a view to safeguarding an appropriate representation of the States.

In its work, the Assembly will particularly bear in mind the following principles:

The definitive organization which will take the place of the present transitional organization should be conceived so as to be capable of constituting one of the elements of an ultimate Federal or confederal structure, based upon the principle of the separation of powers and including, particularly, a bicameral representative system.

The Assembly shall also study problems to which the co-existence of different organizations for European cooperation, now in being or to be created in the future, give rise, in order to ensure that these organizations are coordinated within the framework of the federal or confederal structure.

2. The proposals of the Assembly shall be submitted to the Council within six months from the date on which the Assembly shall have assumed its functions. These proposals will then be forwarded together with the opinion of the Council, by the President of the Assembly to the Governments of the member States, which, within three months from the date of the receipt of these proposals, shall call a conference for the purpose of examining them.

Chapter III—The Council

ARTICLE 39. 1. The general task of the Council is to harmonize the actions of the Commissariat with the policies of the Governments of the member States.

2. The Council may, within the framework of the present Treaty, issue directives for the action of the Commissariat.

These directives shall be issued by unanimous vote.

Concerning matters which have not been the subject of directives by the Council, the Commissariat may take action, subject to the provisions of the present Treaty, with a view to ensuring the fulfillment of the objectives of the present Treaty.

3. In conformance with the provisions of the present Treaty, the Council:

(a) shall take decisions.

(b) shall issue concurrences which the Commissariat shall be bound to obtain before making decisions or issuing recommendations.

4. Unless otherwise provided in the present Treaty, the decisions of the Council shall be taken and its opinions issued by a simple majority.

5. Whenever the Council is consulted by the Commissariat, it shall deliberate without necessarily proceeding to a vote. The minutes of these deliberations shall be transmitted to the Commissariat.

ARTICLE 40. The Council shall be composed of representatives of the member States.

Each member State shall designate thereto a member of its government who may be represented by a Deputy.

The Council shall be organized so as to be able to exercise its functions at all times. To this end, each member State shall at all times have a representative able to participate in the deliberations of the Council without delay.

The Presidency of the Council shall be exercised for a term of three months by each member of the Council in rotation in the alphabetical order of the member States.

ARTICLE 41. The Council shall meet as often as necessary and at least every three months. It shall meet upon convocation by its President, at the initiative of the President, of one of its members or of the Commissariat.

ARTICLE 41 BIS. The Council shall meet as soon as the Treaty has entered into effect.

ARTICLE 42. In case of a vote, a member of the Council may act as proxy for not more than one other member.

ARTICLE 43. 1. Whenever the present Treaty requires a concurrence or a decision of the Council by a simple majority, such concurrence or decision shall be deemed to be granted or taken if it is approved:

either by an absolute majority of the representatives of the member States;
or, in case of an equal division of votes, by the votes of representatives of the member States which together place at the disposal of the Community at least two-thirds of the total contributions of the member States.

2. Whenever the present Treaty requires a concurrence or a decision of the Council by a qualified majority, such concurrence or decision shall be deemed to have been granted or taken by such a majority:

either if such majority includes the votes of the representatives of the member States which together place at the disposal of the Community at least two-thirds of the total contributions of the member States;

or if it receives the votes of the representatives of five member States.

3. Whenever the present Treaty requires a concurrence or a decision of the Council by unanimous vote, such concurrence or decision shall be deemed to have been granted or taken if it is approved by the votes of all the members present or represented on the Council. Abstentions shall not prevent the adoption of such concurrence or decision.

4. In Sections 1 and 2 of this Article, the word "contributions" shall be understood to mean the average between the percentage of the financial contributions actually paid during the previous fiscal year and the percentage of men making up the European Defense Forces on the first day of the current half year.

ARTICLE 43 BIS. 1. For purposes of the application of Section 4 of Article 43 above, until the date set for the complete execution of the plan for the formation of the first echelon of the forces, the average contributions furnished by the member States, which are provided for in the said Section, shall be evaluated on a forfeitary basis as follows: Germany—3, Belgium—2, France—3, Italy—3, Luxembourg—1, The Netherlands—2.

2. During the transitional period defined in Section 1 of this Article, the requirement of a percentage of the total contributions of the member States established by Article 43, Section 1 above shall be considered to have been met whenever at least nine-fourteenths of the total value of the contributions of the member States as evaluated on a forfeitary basis is reached.

ARTICLE 44. Modifications in texts defining the status of personnel and in texts establishing the general organization, recruitment rules and the size and structure of the forces, as well as modifications in the plan establishing the European Defense Forces, shall be made by unanimous agreement of the Council, upon the proposal of a member of the Council or of the Commissariat, and shall be executed by the latter.

ARTICLE 45. The Council shall determine the salary, emoluments and pension rights of the President and members of the Commissariat.

ARTICLE 46. The Council, acting by a two-thirds majority, may, on the initiative of one of its members, invite the Commissariat to take any measure within the limits of its competence.

If the Commissariat does not act on such invitation, the Council or a member State may refer the matter to the Assembly for purposes of action under Section 2, Article 36 above.

ARTICLE 47. The Council shall decide when it is appropriate to call a joint meeting with the Council of the North Atlantic Treaty Organization.

Decisions taken unanimously in the course of joint meetings of the two Councils shall be binding on the institutions of the Community.

ARTICLE 48. The decision of the Council provided for in paragraph 4 of the Protocol Concerning Relations between the North Atlantic Treaty Organization and the European Defense Community shall be taken unanimously.

ARTICLE 49. The minutes of the meetings of the Council shall be communicated to the member States and to the Commissariat.

ARTICLE 50. The Council shall establish its own rules of procedure.

Chapter IV—The Court

ARTICLE 51. The function of the Court is to ensure the rule of law in the interpretation and application of the present Treaty and implementing regulations.

ARTICLE 52. The Court is the Court of Justice of the European Coal and Steel Community.

ARTICLE 53. For the discharge of its functions, the Court shall, in cases and in the manner provided for in the annexed protocols, be assisted by a judicial system including particularly subordinate courts which shall be European in character.

ARTICLE 54. 1. The Court shall have jurisdiction to hear appeals from decisions or recommendations of the Commissariat, by a member State, by the Council or by the Assembly on grounds of lack of legal competence, substantial procedural violations, violation of the present Treaty or of any rule of law relating to its application, or abuse of power.

2. Such appeals must be taken within a maximum period of one month following either the publication or registration of the decision or recommendation in question.

3. If the court should annul a decision or recommendation of the Commissariat, the matter shall be remanded to the Commissariat which shall take the measures necessary to give effect to the judgment of annulment.

ARTICLE 55. 1. If the Commissariat is required by a provision of the present Treaty or of implementing regulations to issue a decision or recommendation and fails to fulfill this obligation, such omission may be brought to its attention by the member States or by the Council.

The same shall be true if the Commissariat refrains from issuing a decision or recommendation which it is empowered to issue by a provision of the present Treaty or of implementing regulations where such failure to act constitutes an abuse of power.

2. If at the end of a period of two months the Commissariat has not issued any decision or recommendation, an appeal may be brought before the Court,

within a period of one month, against the implicit negative decision which is presumed to result from such failure to act.

ARTICLE 56. 1. If any member State feels that, in a given case, an action or lack of action on the part of the Commissariat may provoke, as concerns such State, fundamental and persistent disturbances, it may so inform the Commissariat.

After consulting with the Council, the Commissariat shall, if appropriate, recognize the existence of such a situation and decide upon the measures to be taken under the provisions of the present Treaty to end such a situation while at the same time safeguarding the essential interests of the Community. The Commissariat shall make its decision within a two-week period.

2. If an appeal grounded on the provisions of this Article is made to the Court against this decision or against the explicit or implicit decision refusing to recognize the existence of the situation indicated above, the Court shall decide the merits of the case and shall provisionally take all necessary measures.

3. If a decision of the Commissariat is annulled, the latter shall decide upon measures to be taken to achieve the ends provided for in Section 1 of this Article, within the framework of the decree of the Court.

ARTICLE 57. The Court shall have jurisdiction to hear appeals from decisions of the Council by a member State, by the Commissariat or by the Assembly on grounds of lack of legal competence, substantial procedural violations, violation of the present Treaty or of any rule of law relating to its application, or abuse of power.

2. Such appeals must be taken within one month following that date on which the decision of the Council is communicated to the member States or to the Commissariat.

ARTICLE 58. 1. The Court may annul decisions of the Assembly on the motion of a member State or of the Commissariat.

The jurisdiction of the Court may be invoked under this Article only on grounds of lack of legal competence to act or of substantial procedural violations.

2. The jurisdiction of the Court may be invoked under this Article only within a period of one month following the date of publication of the Assembly's decision in question.

ARTICLE 59. Appeals to the Court shall not have the effect of suspending the execution of a decision or a recommendation.

However, if in its judgment circumstances demand it, the Court may order the suspension of the execution of the decision or recommendation in question.

The Court may prescribe any other necessary provisional measures.

ARTICLE 60. The Court shall have jurisdiction, in the cases and in the manner provided for in the annexed protocols, to hear controversies concerning the civil liability of the Community or the legal status of its agents.

ARTICLE 61. The Court shall have jurisdiction to hear criminal matters in cases and in the manner provided for in the annexed protocol.

ARTICLE 61 BIS. Transitional provisions contained in the protocol mentioned in Article 61 above shall be applicable until such time as a common military criminal code comes into effect.

ARTICLE 62. When the validity of decisions or recommendations of the Commissariat or decisions of the Council is contested in litigation before a national tribunal, such issue shall be certified to the Court, which shall have exclusive jurisdiction to rule thereon.

ARTICLE 63. Without prejudice to the provisions of the Code of Jurisdiction provided for in Article 67, the Court, in cases and in the manner provided for in its Code, shall have such jurisdiction as may be provided by any clause to such effect in a public or private contract to which the Community is a party or which is undertaken for its account.

ARTICLE 64. The Court shall have jurisdiction in any other case provided for in the present Treaty.

The Court may also exercise jurisdiction in any case relating to the objectives of the present Treaty, where the laws of a member State grant such jurisdiction to it.

ARTICLE 65. 1. Any difference among the member States concerning the application of the present Treaty which cannot be settled by other means may be submitted to the Court either at the common request of States which are parties to the dispute or at the request of one of the States.

2. The Court shall also have jurisdiction over any differences among the member States relating to the objectives of the present Treaty if such differences are submitted to it pursuant to a compromise agreement.

ARTICLE 66. Judgments of the Court shall be enforceable on the territories of the member States.

Execution of such judgments on the territory of a member State shall be in accordance with the laws in force in such State; in particular, there may be no execution of such a judgment in a member State which would not be permitted by the generally applicable legislation of such State.

Execution of judgments of the Court shall take place after the judgment formula in use in the territory of the State concerned has been appended; no other action shall be necessary with respect to a judgment of the Court other than verification of its authenticity. These formalities with respect to the judgments of the Court shall be carried out by a Minister designated for that purpose by each of the governments.

ARTICLE 67. The application of the provisions of this chapter and of the Protocol concerning Jurisdiction shall be regulated by a Code of Jurisdiction which shall be enacted in the form of a convention among the member States and which shall, in particular, make the modifications necessary to ensure such application in the Code of the Court as annexed to the Treaty establishing the Community.

TITLE III—MILITARY PROVISIONS

Chapter I—Organization and Administration of the European Defense Forces

ARTICLE 68. 1. The basic units in which the activity of the various branches of service making up the Ground Forces are to be combined shall be composed of elements of the same national origin. These basic units shall be as light as possible while maintaining necessary effectiveness. To the extent possible, they shall be relieved of logistic functions, and shall depend for their existence and maintenance upon higher integrated echelons.

2. The Army Corps shall be composed of basic units of different national origins, except in special cases resulting from tactical needs or organizational necessities and determined by the Commissariat on the recommendation of the competent Supreme Commander responsible to the North Atlantic Treaty Organization; in such cases the Commissariat shall make its determination with the unanimous concurrence of the Council. Their tactical support units as well as their logistical support formations shall be integrated; but constituent units of regiment or battalion size shall remain homogeneous and their distribution among nationalities shall be made according to the proportion existing among the basic ground units. The Command and Headquarters of the Army Corps shall be integrated; such integration shall be effected in the manner best suited to ensuring effectiveness in their utilization.

3. The basic units and their support troops and services may occasionally be brought into Army Corps subject to the authority of the North Atlantic Treaty Organization, and reciprocally, subject to the authority of the North Atlantic Treaty Organization, divisions may be brought into European Army Corps.

The Commanding echelons of Forces subject to the authority of the North Atlantic Treaty Organization, to which the European units shall be attached organically shall integrate elements coming from these units and vice-versa.

ARTICLE 69. 1. The basic Air Force units shall be composed of elements of the same national origin, each of which shall have homogeneous combat matériel corresponding to a given basic mission.

These basic units shall, as far as possible, be relieved of their logistical functions and shall depend upon higher integrated echelons for their supplies and maintenance.

2. A certain number of basic units of different national origins shall be grouped under the orders of integrated higher echelons, except in special cases resulting from tactical needs or organisational necessities and determined by the Commissariat on the recommendation of the competent Supreme Commander responsible to the North Atlantic Treaty Organization; in such cases the Commissariat shall make its determination with the unanimous concurrence of the Council. The logistic support formations shall be integrated; but the constituent service units shall remain of homogeneous national composition and their distribution among nationalities shall be made according to the proportion existing among the basic units.

3. European basic units as well as their support units may be brought under Commands responsible to the North Atlantic Treaty Organization and, reciprocally, basic units subject to the authority of the North Atlantic Treaty Organization may be brought under European Commands.

The Command echelons responsible to the North Atlantic Treaty Organization to which European units are attached organically shall integrate European elements and vice-versa.

ARTICLE 70. 1. The European Naval Forces shall consist of formations which are assigned to the protection of the maritime approaches of the European territories of member States, determined by agreement between the governments.

2. Contingents of the European Naval Forces shall constitute homogeneous groupements European in status and shall all have the same tactical mission.

3. These groupements may occasionally, wholly or in part, be incorporated into formations subject to the authority of the North Atlantic Treaty Organization; in such cases, elements furnished by these groupements shall be integrated into the command echelons of such formations.

ARTICLE 71. With the unanimous concurrence of the Council, the Commissariat shall establish the plans for the organization of the Forces. The Commissariat shall ensure the execution of such plans.

ARTICLE 72. 1. Personnel conscripted to serve in the European Defense Forces shall serve the same period of active duty.

2. The period of active duty service in the European Defense Forces shall be rendered uniform as soon as possible by unanimous decision of the Council on recommendation of the Commissariat.

ARTICLE 73. 1. Recruitment for the European Defense Forces in each member State shall be carried out in accordance with laws of such State within the framework of the common principles defined in the Military Protocol.

2. The Commissariat shall oversee the recruiting operations for the European Defense Forces carried out by the member States in accordance with the provisions of the present Treaty, and, in order to ensure conformity with such provisions, shall, if necessary, make recommendations to the member States.

3. Beginning with a date fixed by common agreement among the governments of the member States, the Commissariat shall itself undertake recruiting in accordance with the provisions of such agreement and within the framework of the common principles laid down in the Military Protocol.

ARTICLE 74. 1. The Commissariat shall direct the training and preparation of the European Defense Forces according to a common doctrine and uniform methods. In particular, the Commissariat shall direct the schools of the Community.

2. Upon the request of a member State, due regard shall be had, in the application of Section 1 of this Article, of the particular situation resulting for such State from the existence by virtue of its Constitution, of more than one official language.

ARTICLE 75. The Commissariat shall draw up mobilization plans for the European Defense Forces, in consultation with the governments of the member States.

Without prejudice to the final organization to be established under the provisions of Article 38 above, the decision to proceed with mobilization shall be made by the member States; execution of mobilization measures shall be divided between the Community and the member States in a manner to be determined by agreements between the Commissariat and such States.

ARTICLE 76. The Commissariat shall exercise the necessary powers of inspection and supervision.

ARTICLE 77. 1. The Commissariat shall determine the territorial deployment of the European Defense Forces within the framework of recommendations of the competent Supreme Commander responsible to the North Atlantic Treaty Organisation. In case of differences of opinion which cannot be settled with the latter, the Commissariat may set aside such recommendations only with the unanimous approval of the Council.

Within the framework of the general decisions provided for in Section 1 of this Article, the Commissariat shall take executive measures, after consultation with the State in which the troops are to be stationed.

2. In case of differences of opinion on essential points, the State in question may appeal to the Council. Such State must abide by the decision of the Commissariat if the Council upholds the latter by a two-thirds majority vote.

The privilege granted member States by Article 56 above shall not be affected by the provisions of this Article.

ARTICLE 78. The Commissariat shall administer personnel and matériel in conformance with the provisions of the present Treaty.

It shall endeavor to ensure a distribution of armaments and equipment looking to uniformity within units of the European Defense Forces.

ARTICLE 78. BIS. 1. As soon as it takes up its duties, the Commissariat shall:
 draw up plans for the formation and equipment of the first echelon of the Forces in accordance with the provisions of an agreement adopted by the member States and within the framework of North Atlantic Treaty Organization plans;
 decide upon and organize the assistance to be requested from States parties to the North Atlantic Treaty in the training of contingents;
 draw up summary provisional regulations on essential points.

2. As soon as it takes up its duties; the Commissariat shall undertake formation of the units of the first echelon of the Forces.

3. As soon as the Treaty comes into effect, the units already in existence and the contingents to be recruited by the member States to complete this first echelon shall immediately come under the authority of the Community and shall be placed under the jurisdiction of the Commissariat, which shall exercise over them the powers granted it in the present treaty, under the conditions provided for in the Military Protocol.

4. The Commissariat shall submit to the Council as soon as possible the plans and projects provided for in Section 1 of this Article.

The Council shall approve:

unanimously, the plan for forming the first echelon of the Forces;
by a two-thirds majority, the other plans and projects.

The plans and projects shall be put into effect by the Commissariat as soon as they have been approved by the Council.

ARTICLE 79. A single general regulation concerning military discipline, which shall be applicable to the members of the European Defense Forces shall be enacted by agreement among the governments of the member States, ratified in accordance with the constitutional procedures of each such State.

Chapter II—Legal Status of the European Defense Forces

ARTICLE 80. 1. In the exercise of the functions assigned to it by the present Treaty, and without prejudice to the rights and obligations of the member States:

the Community shall have, in respect of the European Defense Forces and their members, the same rights and obligations as the States in respect of their national forces and their members, in accordance with customary international law;

the Community shall respect the rules embodied in conventions concerning the laws of war which bind one or more of its member States.

2. Consequently, European Defense Forces and their members shall benefit, under international law, from the same treatment as national forces and their members.

ARTICLE 81. The Community shall ensure that the European Defense Forces and their members conform in their conduct to the rules of international law. It shall ensure the punishment of all violations of such rules which may be committed by such Forces or their members.

2. The Community shall take, within the limits of its competence, penal measures and all other appropriate measures in all cases in which such a violation shall have been committed by the Forces of a third State or their members.

The member States shall likewise, on their part, within the limits of their competence, take penal measures and all other appropriate measures against all violations of rules of international law committed against the European Defense Forces or their members.

ARTICLE 82. The legal status of the European Defense Forces shall be determined by a Protocol annexed to the present Treaty.

TITLE IV—FINANCIAL PROVISIONS

ARTICLE 83. The financial administration of the European Defense Community shall be carried out in accordance with the provisions of the present Treaty, the Financial Protocol and the financial regulations.

To ensure the respect of the provisions thus set forth, a Financial Comptroller and an Accounts Commission shall be created whose powers and responsibilities are defined in the following Articles.

ARTICLE 84. The Financial Comptroller shall be independent of the Commissariat and responsible to the Council. He shall be appointed by unanimous vote of the Council. His term of office shall be five years. He may be reappointed.

ARTICLE 85. The Accounts Commission shall be an independent collegial authority. Nationals of each of the member States shall be among its members.

The Council shall, by unanimous vote, determine the number of members of the Commission. The Council shall by two-thirds vote appoint members of the Commission and its President. The term of office of members of the Commission shall be five years. They may be reappointed.

ARTICLE 86. As soon as the Treaty comes into effect, all the receipts and all the expenditures of the Community shall be written into an annual common budget

The fiscal year of the Community shall begin on January 1. This date may be changed by decision of the Council.

ARTICLE 87. 1. In consultation with the Governments of the member States and having regard especially for the provisions of Article 71, the Commissariat shall prepare the budget of the Community. The draft of a common plan for armament, equipment, supply and infrastructure shall be annexed to the draft budget.

The receipts and expenditures of the institutions of the Community shall be dealt with in special sections within the general budget.

2. This draft shall be submitted to the Council at least three months before the beginning of the fiscal year.

Within a period of one month, the Council shall decide:

a) unanimously, the total volume of the budget expressed in authorizations for cash outlays and contracting authorizations, and the amount of the contribution of each member State determined in conformance with Article 94 below; it shall be incumbent upon the government of each member State to ensure the inclusion of the amount determined as its contribution in its budget, in accordance with its constitutional rules;

b) by a two-thirds majority, the distribution of expenditures.

The provisions of subparagraphs (a) and (b) of this Section shall not be applicable to the receipts and expenditures resulting from an agreement concerning foreign aid provided for in Article 99 below, nor to receipts and expenditures which merely transit through the common budget as provided in the Financial Protocol.

3. The common budget thus approved by the Council shall be forwarded to the Assembly, which shall take a vote on it not later than two weeks before the beginning of the fiscal year.

The Assembly may propose changes by annulling, reducing, increasing, or adding receipts or expenditures. These proposals may not have the effect of increasing the total amount of expenditures appearing in the budget adopted by the Council.

The Assembly, by a two-thirds majority of votes cast and a simple majority of its membership, may propose the rejection of the entire budget.

4. In all cases provided for in Section 3 of this Article, the Commissariat or a member State may, within fifteen days after the vote, ask the Council to undertake a second reading within two weeks. Propositions of the Assembly shall be adopted if the Council approves them by a two-thirds majority. If the Council has not been requested to undertake a second reading as herein provided within a fifteen-day period, the Assembly's proposal shall be considered to have been adopted by the Council.

ARTICLE 87 BIS. 1. Notwithstanding the provisions of Article 87 above, the Council alone shall approve the budget for the period between the entry into effect of the Treaty and the end of the calendar year in question.

In the matter of expenditures, the military and financial programs of all of the member States for the build-up of units which are to constitute the European Forces shall be taken into account to the greatest extent possible in establishing this budget.

2. For the execution of this Budget, the Commissariat shall delegate to the appropriate national services the responsibility of carrying out, for its account, the expenditures for the European Defense Forces, to the extent that its own services do not allow it to perform these tasks.

3. Until the first common budget has been approved, the Community shall receive advances from the member States to enable it to meet its first expenses; these advances shall be credited later to their contributions. Expenditures paid out of these advances shall be reinstated in the common budget.

4. The common budget for the first complete fiscal year following the entry into effect of the Treaty shall be prepared, approved and executed according to the general principles of the Treaty. However:

a) The contributions of the member States to the budget for this fiscal year shall be determined in accordance with the procedure adopted by the North Atlantic Treaty Organisation, to the exclusion of any other method;

b) At the request of any member State which feels that the common budget thus drawn up is not in accord with the intentions expressed by its Government or its Parliament, either as regards the fulfillment of its commitments to the North Atlantic Treaty Organisation or the means employed to carry out these commitments, the Community shall submit this budget to the competent authorities of the North Atlantic Treaty Organization for their opinion.

ARTICLE 88. 1. If, at the beginning of the fiscal year, the budget has not yet been finally approved, the Community shall be empowered to provide for its expenditures by monthly slices equal to $\frac{1}{12}$ of the funds in the budget for the preceding year. This power shall end after three months. The expenditures may not exceed one fourth of expenditures for the preceding year.

In the case provided for in the preceding paragraph, the member States shall grant advances to the Community in accordance with the scale applicable in the preceding year. These advances shall be credited against their contributions.

If at the expiration of the time limit provided for in the first paragraph, the budget has not yet entered into force, the budget decided on by the Council shall

enter into force, provided that the Assembly has had at least two weeks time to study it.

2. In case of necessity, the Commissariat may, during the course of the fiscal year, submit a supplementary budget which shall be approved in the same manner as the regular budget with the time limits reduced by half.

ARTICLE 89. 1. The budget shall be subdivided into sections, chapters and articles. It shall be established in gross totals and shall contain all the receipts and all the expenditures of the Community.

In particular, it shall include the annual expenditures necessary for the execution of common plans for armament, equipment, supply and infrastructure for a period of several fiscal years.

2. The budget shall be established in a common currency chosen by the Council by two-thirds majority.

The relation between this common currency and the national currency shall be determined by the official rate of exchange indicated to the Community by each State.

ARTICLE 90. 1. The Commissariat may, within the limits of general or specific authorizations given it in the budget itself, by a two-thirds majority of the Council or by the financial regulations, transfer appropriations among the items of the budget for the administration of which it is responsible. Such transfers shall require the approval of the Financial Comptroller whenever they are made in virtue of a general authorization.

2. Under the same conditions, similar transfer powers shall be vested in other institutions of the Community with respect to appropriations for the administration of which they are responsible.

ARTICLE 91. The execution of the budget shall be ensured by the Commissariat and by the other institutions of the Community in accordance with the provisions of the Financial Protocol.

In the establishment and execution of the budget, the institutions of the European Defense Community shall ensure that commitments taken by the member States with the North Atlantic Treaty Organisation are respected. Contracts made by the member States with third parties before the Treaty comes into force shall be executed unless they can be modified in the interest of the Community with the accord of the Government which signed them.

ARTICLE 92. The execution of the budget shall be supervised by the Financial Comptroller.

All decisions of the Commissariat which commit expenditures shall be submitted for approval by the Financial Comptroller, who, by his signature, shall verify the budgetary regularity of the expenditure and its conformity with provisions of the financial regulations.

Without prejudice to the provisions of Articles 54 and 57, the Commissariat may override a refusal of signature by the Financial Comptroller, by sending the latter, in writing, a special requisition for the expenditure in question. After having received this requisition, the Financial Comptroller shall immediately

report it to the Council; the latter shall consider the matter with the least possible delay.

After three months, the Financial Comptroller shall send a report on the execution of the budget to the Council, which shall transmit it to the Assembly. This report shall contain all appropriate observations concerning the financial management of the Commissariat.

The Financial Comptroller shall give his opinion on the budget drafts. This opinion shall be transmitted to the Commissariat. The Council shall add this opinion to the budget which it shall submit to the Assembly.

ARTICLE 93. The receipts of the Community shall include:

- a) the contributions paid by the member States;
- b) miscellaneous receipts of the Community itself;
- c) the sums which the Community may receive by virtue of articles 7 and 99.

The Community shall also have at its disposal end-item aid received by virtue of Articles 7 and 99.

ARTICLE 94. As soon as the Treaty enters into effect, the contributions of the member States shall be fixed by the Council in accordance with the procedure adopted by the North Atlantic Treaty Organisation.

The Council shall seek a proper method for determining the contributions which will ensure an equitable distribution of charges taking into account principally of the financial, economic and social capabilities of the member States. This method shall be adopted unanimously by the Council and shall be applied beginning with the fiscal year following its approval.

If there is no agreement on such a method, the contributions will continue to be determined in accordance with the procedure adopted by the North Atlantic Treaty Organisation.

ARTICLE 95. 1. The contributions, determined in accordance with the preceding Articles, shall be payable monthly in the national currency, on the first day of each month. The Council, by unanimous decision, may accept the settlement by a State of its contribution in a currency other than its national currency.

2. In case of modification of the rate of exchange, the amounts remaining due on a contribution shall be adjusted on the basis of the new rate. However, as concerns sums corresponding to such adjustment, the debtor State may request that the total of such sums be limited to the loss suffered by the Community as a result of the modification in the rate of exchange. Such limitation shall be determined by unanimous decision of the Council.

The member States shall bear the entire burden of any additional expenditures on the Community's contracts which might result from the application of arrangements made by a member State in favor of contracting parties upon the occasion of a monetary reform.

3. If the real purchasing power of the currency is considerably inferior to its purchasing power at the time the budget was approved, without official modi-

fication of the rate of exchange, the Council of Ministers, at the request of the Commissariat or of a member State, shall study the measures to be taken to compensate for the loss which such a change may bring to the Community.

ARTICLE 96. In the establishment and execution of the budget, the Community shall endeavor to limit the monetary transfers among the member States or between them and other countries, which might affect the economic and monetary stability of the member States.

The financial regulation will indicate the method by which such monetary transfer shall be carried out.

If as a result of the execution of the budget, the economic and monetary stability of a member State is affected, the Commissariat, at the request of that State and in agreement with the interested Governments, shall take the necessary corrective measures. If no agreement is reached on such measures, the Council, at the request of the Commissariat or of a member State, shall take the necessary steps as provided in the present Treaty.

The member States commit themselves to make more flexible in favor of the Community the restrictions imposed by their exchange legislation on international monetary transfers.

ARTICLE 97. 1. The Accounts Commission shall verify accounts in accordance with the provisions of the financial regulation.

On the basis of vouchers, the Accounts Commission shall verify the regularity of operations and the proper use of appropriations in the budget of the Community. For this activity, it is authorized to request the assistance of the accounting agencies of the member States.

2. The report on the result of the auditing of accounts shall be presented to the Council, which shall transmit it to the Assembly not later than six months after the expiration of the fiscal year.

On the basis of this report, the Accounts Commission shall submit to the Council a proposal for the discharge of each institution from further responsibility concerning its financial management for the period in question. The Council shall adopt a position with regard to this proposal and shall present it to the Assembly, which shall act thereon.

The discharge shall be considered to have been granted unless it is refused by a two-thirds majority of votes cast and a simple majority of the Assembly's membership.

ARTICLE 98. The Governments of the member States may ask the Financial Comptroller and the Accounts Commission for copies of vouchers and other verifying documents which they use in connection with their duties.

ARTICLE 99. The Commissariat shall deal with questions concerning foreign financial and end-item aid furnished to the Community.

Any agreement concerning foreign aid furnished to the Community shall be approved by the Council notwithstanding special provisions of the Financial Protocol concerning foreign aid.

The Community may, with the unanimous approval of the Council, grant aid to third States in order to achieve the purposes defined in Article 2 above.

Any end-item aid intended for the European Defense Forces which the Community or the member States may receive shall be administered by the Commissariat.

The Council, by a two-thirds majority vote, shall be empowered to give general directives to the Commissariat in order to ensure that the latter's action concerning foreign aid does not endanger the economic, financial and social stability of one or more member States.

ARTICLE 100. The conditions of remuneration and the pension rights of the civil and military personnel employed by the Community are set forth in a Protocol annexed to the present Treaty.

TITLE V—ECONOMIC PROVISIONS

ARTICLE 101. The Commissariat shall prepare in consultation with the Governments of the member States, the common armament, equipment, supply, and infrastructure programs of the European Defense Forces, and shall, in accordance with the provisions of Article 91, ensure their execution.

ARTICLE 102. 1. In preparing and executing the programs, the Commissariat shall:

a) utilize in the best way possible the technical and economic capabilities of each of the member States and avoid causing serious disturbances in the economies of any of them;

b) take into account the amounts of contributions to be furnished by the member States, and respect the rules set forth in the present Treaty concerning monetary transfers;

c) in collaboration with the appropriate bodies of the North Atlantic Treaty Organization simplify and standardize armaments, equipment, supplies and infrastructure as much and as rapidly as possible.

2. The Council may give general directives to the Commissariat within the framework of the principles set forth above. These directives shall be issued by a two-thirds majority vote.

ARTICLE 103. 1. The expenditures necessary for the execution of the common programs shall be included in the budget estimate, which shall include as an annex a statement indicating projected execution of the program as allocated by categories of products and by countries. Approval of the budget shall be considered approval of these programs.

2. The Commissariat is authorized to establish programs extending over a period of several years. It shall submit these programs to the Council and shall request approval in principle from this body of those parts of the programs which involve financial commitments extending over several years. This approval shall be granted by a two-thirds majority of the Council.

ARTICLE 104. 1. The Commissariat shall be responsible for the execution of the programs in consultation with the Council and the Governments of the member States.

2. The Commissariat shall ensure the placing of contracts, and shall supervise their execution, deliveries and payments for construction, goods, and services.

The Commissariat shall organize decentralized civilian services in such a manner that they can use the resources of each member State under the most advantageous conditions for the Community.

3. Contracts may be placed only after calling for the most extensive possible competitive bidding except in cases in which military secrecy, technical factors and conditions of urgency defined in the regulation provided for in Section 4 below necessitate otherwise. Contracts shall be concluded after public or restricted bidding or without bidding (by mutual consent) with firms capable of fulfilling the conditions, and who are not excluded from public bidding for reasons independent of nationality. Exclusions based on nationality shall not be recognized as concerns nationals of the member States.

Within the framework of the provisions of Article 102 above, orders must be placed with the lowest bidders.

4. The procedures for placing contracts, and supervising the execution, receipt, and payment for construction, goods and services shall be determined by regulations. These regulations shall be submitted by the Commissariat for the approval of the Council by two-thirds majority vote. They can be amended by the same procedure.

5. Contracts above a certain amount shall be submitted by the Commissariat to a Contracts Committee including nationals of each of the member States.

If the Commissariat does not employ the advice of the Contracts Committee, it shall present a report to the Council giving its reasons.

The procedure for application of this Article shall be determined by regulations. These regulations shall be submitted by the Commissariat for the approval of the Council by two-thirds majority vote. They may be amended by the same procedure.

6. In cases arising from contracts concluded between the Community and parties residing in one of the member States, the administrative or judicial nature of the controversy, the jurisdiction *ratione materiae* or *ratione loci* of an administrative or judicial tribunal as well as the applicable law shall be determined:

a) Where the dispute concerns real property, by the law of the place where the property is located;

b) In all other cases, by the law of the place where the supplier resides.

This rule may be changed by agreement between the parties, except as concerns the administrative or judicial nature of the competent jurisdiction and jurisdiction *ratione materiae*.

The Commissariat shall not normally have recourse to such agreements except in special cases or in order to give jurisdiction to a court operating under the authority of the Community.

7. If the Commissariat determines in the execution of the programs that national public policy or private practices or agreements tend to prevent or restrain seriously normal competitive conditions, it shall appeal to the Council, which shall decide unanimously on measures to remedy the situation.

The Council may be appealed to under the same conditions by a member State.

ARTICLE 104 BIS. The regulations provided for in Sections 4 and 5 of Article 104 shall be submitted for the approval of the Council within six months after the entry into effect of the present Treaty.

Until these regulations are enacted, the Commissariat shall ensure the awarding of contracts in conformity with the legislative or administrative provisions in effect in the member States.

ARTICLE 105. If the Commissariat determines that the execution of all or part of a program is running into difficulties and cannot be executed, as a result, for instance, of an insufficient supply of raw materials, lack of equipment or plant or abnormally high prices, or that its execution cannot be ensured within the required time, it shall notify the Council and seek with it the appropriate means to eliminate those difficulties.

The Council by unanimous vote, in consultation with the Commissariat, shall decide on the measures to be taken.

In the absence of a unanimous decision of the Council on measures envisaged in the previous paragraph, the Commissariat, after consultation with the Governments concerned, shall make recommendations to them in order to ensure the placing and execution of orders within the time limits provided in program and at prices not abnormally high, taking into account the necessity of sharing as equitably as possible the burdens resulting therefrom among the economies of the member countries. The Council, by a two-thirds majority, may give the Commissariat general directives relative to preparing such recommendations.

A member State receiving such a recommendation may, within a ten-day period, notify the Council which shall act thereon.

ARTICLE 106. The Commissariat shall prepare a common program for scientific and technical research in military fields as well as the means of execution of this program. This program shall be submitted to the Council for approval under the same conditions as the common programs for armament, equipment, supply and infrastructure of the European Defense Forces.

The Commissariat shall ensure the execution of the common research program.

ARTICLE 107. 1. The production of war materiel, the import and export of war materiel originating in or destined for third countries, measures concerning directly facilities for the production of war materiel, as well as the manufacture of experimental models and technical research on war materiel, are prohibited, except as authorized under the terms of Section 3 below.

In the application of this Article the Commissariat shall comply with rules of international law prohibiting the employment of certain instruments of war.

2. The categories of war materiel covered by the prohibitions of Section 1 above are defined in Annex I attached to the present Article.

This Annex may be modified by the Council on the recommendation of the Commissariat or on the Council's own motion, by a two-thirds majority.

3. The Commissariat shall lay down by regulation the procedural rules for the application of the present Article and for the granting of licenses for the production, import and export, and for measures concerning directly facilities for the production of war materiel, as well as for the manufacture of experimental models and for research relating to war materiel.

4. The following provisions shall be applicable to the granting of licenses by the Commissariat:

a. The Commissariat shall not grant licenses for items listed in Annex II attached to this Article in strategically exposed areas, except by unanimous decision of the Council.

b. The Commissariat shall not authorize construction of new propellant plants for military purposes except in territories defined by agreement among the governments of the member States. The Commissariat shall make such licenses subject to the appointment by it of a permanent inspector to ensure adherence by the establishments in question to the provisions of this Article.

The same procedure shall be applicable to short range guided missiles used for anti-aircraft defense, as these are defined in paragraph 4d of Annex II.

c. As concerns exports, the Commissariat shall grant licenses if it considers that they are consistent with the needs, the internal security and the international commitment, if any, of the Community.

d. In the case of the manufacture of experimental models and technical research concerning war materiel, licenses shall be granted so long as the Commissariat does not feel that such manufacture or research might endanger the internal security of the Community, and unless other directives are given by the Council, as provided in Section 2 of Article 39.

e. The Commissariat shall grant general licenses for the production, import, and export of war materiel required by armed forces of member States not comprising part of the European Defense Forces, and to forces of associated States for whom member States assume defense responsibility. The Commissariat shall nevertheless ensure that the beneficiaries of such licenses do not make use of them beyond their needs.

f. The Commissariat shall grant general licenses concerning products listed in Annex I, when these are destined for civilian purposes. The Commissariat shall nevertheless ensure that the beneficiaries of such licenses do not employ them for other than such civilian purposes.

5. The regulations provided for in Section 3 above shall be prepared by the Commissariat and submitted for approval by the Council by a two-thirds majority. They may be amended, on the proposal of the Commissariat or a member of the Council, by the Council by a two-thirds majority.

6. At the request of the Commissariat, the Court may decree the following penalties against persons or enterprises violating the provisions of this Article:

In the case of production, import and export of war materiel, penalties and fines may be imposed not exceeding 50 times the value of the products con-

cerned. This maximum may be either doubled or raised up to the equivalent, in national currency, of one million U. S. Dollars in cases of recurrent or particularly serious offenses.

In the case of technical research, the manufacture of experimental models, and measures facilitating directly the production of war materiel, penalties not exceeding, in national currency, the equivalent of 100,000 U. S. Dollars may be imposed. This amount may be raised to the equivalent in national currency, of 1 million U. S. Dollars in cases of recurrent or particularly serious offenses.

ANNEX I TO ARTICLE 107

1. *War Weapons*

- a) Portable firearms, with the exception of hunting weapons and calibres less than 7 mm.
- b) Machine guns
- c) Anti-tank weapons
- d) Artillery pieces and mortars
- e) Anti-aircraft weapons (D. C. A.)
- f) Smoke-screen, gas and flame producing apparatuses.

2. *Munitions and rockets of all types for military use*

- a) Munitions for war weapons defined in paragraph 1 above, and grenades
- b) Self-propelled missiles
- c) Torpedoes of all types
- d) Mines of all types
- e) Bombs of all types

3. *Powder and explosives for military use, including substances primarily used for propulsion by rockets*

Exempted will be products principally for civilian use, notably: Pyrotechnical compounds; priming explosives: a) fulminate of mercury, b) nitride of lead, c) trinitroresorcinat of lead, d) tetrazene; chlorated explosives, nitrated explosives with dinitrotoluene or with dinitronaphtaline; nitrocelluloses; black powder; hydrogen peroxide with a concentration less than 60%; nitric acid with a concentration less than 99%; hydrate of hydrazine with a concentration less than 30%.

4. *Armored equipment*

- a) Tanks
 - b) Armored vehicles
 - c) Armored trains
5. Warships of all types
6. "Military" planes of all types
7. Atomic weapons

8. Biological weapons¹

9. Chemical weapons¹

(Definitions for items 7, 8, and 9 will be given in Annex II.)

10. Constituent parts which can be used only in the construction of one of the items enumerated in groups 1, 2, 4, 5, and 6 above.²

11. Machines which can be used only for the manufacture of one of the items enumerated in groups 1, 2, 4, 5, and 6 above.

ANNEX II TO ARTICLE 107

[Translation from official French text in *Traktatenblad van het Koninkrijk der Nederlanden*, Jaargang 1952, No. 119, p. 39]

The present annex is considered to include the weapons defined in sections I to VI below and the means of production specifically designed to produce these weapons. Nevertheless, the provisions of sections II to VI of this annex are considered to exclude any device or component part, equipment, means of production, product, and process used for civilian needs or serving scientific, medical, and industrial research in the fields of fundamental science and applied science.

I. *Atomic weapons.*

a. Atomic weapons are defined as any weapons which contain, or are designed to contain or utilise, a nuclear fuel or radioactive isotopes, and which, by explosion or other uncontrolled nuclear transformation or by the radioactivity of the nuclear fuel or the radioactive isotopes, is capable of mass destruction, widespread damage, or mass poisoning.

b. Also considered as an atomic weapon is any portion, device, component part, or substance specifically designed or essential for a weapon defined in paragraph *a.*

c. Any quantity of nuclear fuel produced in the course of any one year in an amount greater than 500 grams shall be considered to be a substance specifically designed or of essential use for atomic weapons.

d. Included in the term "nuclear fuel" as it is used in the foregoing definitions are plutonium, uranium 233, uranium 235 (including the uranium 235 contained in uranium to which has been added more than 2.1 per cent by weight of uranium 235), and any other substance capable of releasing appreciable quantities of atomic energy by nuclear fission or by fusion or by other nuclear reaction of the substance. The above substances are to be considered as nuclear fuel whatever the chemical or physical state in which they are.

II. *Chemical weapons.*

a. Chemical weapons are defined as any equipment or apparatus specifically designed for the utilization, for military purposes, of the asphyxiating, toxic,

¹ The Commissariat may exempt from the requirement of authorizations chemical and biological substances the use of which is primarily civilian. If the Commissariat decides that it is unable to grant such exemptions, it shall limit the control which it exercises solely to the use of such substances.

² The production of models of, and the technical research concerning, the material defined in paragraphs 10 and 11 above are not subject to the appropriate provisions of Article 107.

irritating, paralysing, growth-controlling, anti-lubricating, or catalytic properties of any chemical substance whatsoever.

b. Except as provided in paragraph *c*, chemical products having such properties and capable of being utilized in the equipment or apparatus described in paragraph *a* are considered to be included in this definition.

c. Apparatus and quantities of chemical products described in paragraphs *a* and *b* not in excess of civilian needs in time of peace are considered to be excluded from this definition.

III. *Biological weapons.*

a. Biological weapons are defined as any equipment or apparatus specifically designed to utilize, for military purposes, harmful insects or other organisms, living or dead, or their toxic products.

b. Except as provided by paragraph *c*, insects, organisms, and their toxic products, of such a nature and in such quantity that they can be utilized in the equipment or apparatus described in paragraph *a*, are considered to be included in this definition.

c. Equipment, devices, and amounts of insects, organisms, and their toxic products described in paragraphs *a* and *b* not in excess of civilian needs in time of peace are considered to be excluded from this definition.

IV. *Long-range missiles, guided missiles, and influence mines.*

a. Except as provided in paragraph *d*, long-range missiles and guided missiles are defined as missiles such that their speed or direction can be influenced after the moment of launching by a device or mechanism located within or exterior to the missile, including the V-type weapons developed during the last war and their later modifications. Combustion is considered to be a mechanism which can influence speed.

b. Except as provided in paragraph *d*, influence mines are defined as naval mines which may be detonated automatically by influences emanating solely from external sources, including the influence mines developed in the course of the recent war, and their later modifications.

c. Portions, devices, or component parts specifically designed to be used in or with the weapons described in paragraphs *a* and *b* are considered to be included in these definitions.

d. Considered to be excluded from these definitions are proximity rockets and guided missiles of short range for antiaircraft defense answering to the following maximum characteristics:

- length, 2 metres;
- diameter, 30 centimetres;
- speed, 660 metres per second;
- range, 32 kilometres;
- weight of warhead and explosive charge, 22.5 kilograms.

V. *Warships other than small defense craft.*

By warships other than small defense craft must be understood:

- a. Warships over 1,500 tons displacement;
- b. Submarines;
- c. Warships propelled otherwise than by steam engines, by Diesel or gasoline engines, by gas turbines, or by reaction [jet, etc.] engines.

VI. *Military aircraft.*

Included under this term are military aircraft and the following component parts:

- a. airframes: frames of center section, wing-frames, longitudinal frames.
- b. reaction [jet, etc.] engines: turbo-compressor rotors, turbine discs, axial-flow compressor rotors;
- c. piston engines: cylinder blocks, turbo-compressor rotors.

ARTICLE 107 BIS. The regulations provided for in Section 3 of Article 106 shall be submitted to the Council within three months after the entry into effect of the Treaty. In the interim, the Commissariat shall grant authorizations in appropriate cases.

ARTICLE 108. 1. Without prejudice to the provisions of Article 114 below the Commissariat may, as concerns the war materials defined in the Annexes to Article 107, address itself directly to the enterprises in question for information necessary to the fulfillment of its mission; the interested governments shall be kept informed.

The Commissariat may cause its agents to proceed to necessary verifications.

2. At the request of the Commissariat, the Court, subject to the provisions of the Protocol concerning its Code, may levy against an enterprise which does not furnish information requested or which knowingly furnishes false information, fines not to exceed one percent of the plant's annual turnover and daily penalty payments not to exceed five percent of the average daily turnover per day of delay.

ARTICLE 109. In order to aid the Commissariat in the performance of the tasks provided for in Articles 101 and 102, a Consultative Committee shall be established. It shall be composed of at least 20 and, at the most, 34 members. It shall include, in particular, representatives of producers and of labor; the numbers of the producers' representatives and of the representatives of labor shall be equal.

The Committee shall include nationals of each of the member States.

The members of the Consultative Committee shall be appointed by the Council, by a two-thirds majority. They shall be designated in their personal capacities for a term of two years. No order or instruction from organizations which have nominated them shall be binding on them.

The Consultative Committee shall designate from among its members its President and its executive bureau, for a period of one year. The Committee shall draw up its own internal regulations.

The compensation allowed members of the Consultative Committee shall be set by the Council on the proposal of the Commissariat.

ARTICLE 110. The Consultative Committee shall be consulted by the Commissariat concerning problems of an economic and social nature raised by the preparation or execution of the common armament, equipment, supply and infrastructure programs. The Commissariat shall submit to the Consultative Committee any information needed in the latter's deliberations.

The Consultative Committee shall be convened by its President upon the request of the Commissariat.

Minutes of the discussions of the Consultative Committee shall be transmitted to the Commissariat and the Council at the same time as are the Committee's formal opinions.

ARTICLE 111. In consultation with the governments of the member States, the Commissariat shall prepare plans for the mobilization of the economic resources of the member States.

TITLE VI—GENERAL PROVISIONS

ARTICLE 112. The member States undertake to take all general or specific measures appropriate to ensure the carrying out of obligations imposed by decisions and recommendations of institutions of the Community; they undertake also to facilitate the accomplishment by the Community of its mission.

The member States undertake to refrain from acts incompatible with the provisions of the present Treaty.

ARTICLE 113. All the institutions and services of the Community and of the member States shall collaborate closely concerning questions of common interest.

They shall lend each other mutual aid in administrative and judicial matters in accordance with agreements to be made among them.

ARTICLE 114. 1. The member States undertake to place at the disposal of the Commissariat all information necessary for the accomplishment of its Mission. The Commissariat may request the member States to cause necessary verifications to be made. Upon the request of the Commissariat, which shall be supported by a statement of reasons, its agents shall be permitted to participate in making these verifications.

The Council, by a two-thirds vote, may give general directives concerning the application of the preceding paragraph.

If a member State believes that the information requested from it by the Commissariat is not needed for the accomplishment of the latter's mission, it may, within ten days, request a ruling from the Court. The Court shall rule in a matter of urgency. While such a request is pending the information in question need not be made available.

2. The institutions of the Community, their staffs and their agents shall not divulge information which is in the nature of a professional or military secret.

Any violation of the provisions of the preceding paragraph may, if damage has resulted from it, be ground for a suit in the Court.

ARTICLE 115. Within the limits of its competence, agents of the Commissariat charged by it with supervisory missions shall enjoy, as against individuals or public or private enterprises on the territories of member States, to the extent necessary for the accomplishment of their mission, such rights and powers as are granted by the laws of such States to agents of comparable departments of the governments. Missions and the status of the agents charged with them shall be duly communicated to the State in question.

Officials of such State may, at the request of such State, or of the Commissariat, assist agents of the Commissariat in carrying out their mission.

ARTICLE 116. Under the terms of an annexed Protocol, the Community shall enjoy on the territories of the member States the privileges and immunities necessary to the accomplishment of its mission.

ARTICLE 117. If the Commissariat determines that a member State has failed to carry out an obligation imposed upon it by the present Treaty, it shall so inform that State and invite its comments; such comments shall be made within a period of one month.

If at the expiration of an additional one-month period there persists a difference of opinion between the Commissariat and the State concerned, either shall have recourse to the Court. The latter shall decide the case as a matter of urgency.

The Council shall be informed of the decision of the Court.

ARTICLE 118. The seat of the institutions of the Community shall be determined by agreement among the member States.

ARTICLE 119. Without prejudice to the provisions of Chapter V of the Military Protocol, the language or languages to be employed by the institutions of the Community shall be determined by unanimous decision of the Council.

ARTICLE 120. 1. The present Treaty is applicable to the European territories of the member States.

2. By decision of the Commissariat taken with the unanimous concurrence of the Council,

a) elements of the European Defense Forces may, with the agreement of the competent Supreme Commander responsible to the North Atlantic Treaty Organization, be stationed in territories, other than those defined in Section 1 of this Article, which are included in the area defined in Article 6 of the North Atlantic Treaty;

b) schools, training centers and other establishments of the Community may be installed in territories, other than those defined in Section 1 of this Article, which are included in the area defined in Section 2a of this Article, as well as in Africa north of the Tropic of Cancer.

3. Elements of the European Defense Forces, as well as schools, training centers and other establishments of the Community, may be stationed in territories other than those defined in Sections 1 and 2 of this Article by virtue of a unanimous decision to this effect taken by the Council after parliamentary approval, if and as required by the constitutional rules of each member State. This decision of the Council shall be taken after consultation with the North

Atlantic Council and with the agreement of the competent Supreme Commander responsible to the North Atlantic Treaty Organization.

4. Member States are authorized to recruit for the needs of contingents furnished by them to the European Defense Forces in territories other than those defined in Section 1 of this Article which are subject to their jurisdiction or for which they assume international responsibility.

ARTICLE 121. The member States undertake not to enter into any international agreement incompatible with the present Treaty.

ARTICLE 122. The member States undertake not to permit any treaties, conventions or declarations existing among themselves with a view to settling differences concerning the interpretation or application of the present Treaty by means of a procedure other than that provided by the present Treaty to prevail over the present Treaty.

ARTICLE 123. 1. In case of serious and urgent necessity, the Council shall assume, or confer upon institutions of the Community or other appropriate organizations, temporary powers necessary to meet the situation, within the limits of the general mission of the Community and with view to ensuring the achievement of its objectives; this decision shall be taken by unanimous vote.

A serious and urgent necessity may result either from the situations provided for in Section 3, Article 2 of the present Treaty, in the Treaty between the member States and the UK of the same date or in the Protocol concerning Guarantees between the European Defense Community and the North Atlantic Treaty Organization, or from a declaration to that effect adopted by unanimous vote of the Council.

2. The provisional measures taken pursuant to Section 1 of this Article shall cease to be effective on the date on which the state of emergency is declared by the Council, by two-thirds vote, to be at an end.

The normally competent institutions shall, in the manner provided for in this Treaty, decide concerning the maintenance of conditions resulting from these measures.

3. The present article does not affect the placing in action of the European Defense Forces for the purpose of meeting an aggression.

ARTICLE 124. In any case not provided for in the present Treaty in which a decision or recommendation of the Commissariat appears necessary to ensure the proper functioning of the Community and the realization of its purposes within the limits of its general mission, such decision or recommendation may be taken with the unanimous concurrence of the Council.

If the Commissariat fails to take the initiative, the matter may be referred to the Council by one of the member States. The Council may by unanimous vote require the Commissariat to make such decision or recommendation. If the Commissariat fails to take action pursuant to such decision of the Council within the time limit set therein, the Council shall be empowered to take such measures itself by a simple majority.

ARTICLE 125. If unforeseen difficulties which are brought out by experience in the application of the present Treaty require an adaptation of the rules concern-

ing the exercise by the Commissariat of the powers which are conferred upon it, appropriate modifications may be made in such powers by unanimous decision of the Council provided that such modifications do not bring into question the provisions of Article 2 or modify the relationship among the powers of the Commissariat and of the other institutions of the Community.

ARTICLE 126. The Government of each member State and the Commissariat may propose amendments to the present Treaty. Such proposals shall be submitted to the Council. If the Council, acting by a two-thirds majority, approves, a conference of representatives of the Governments of the member States shall be immediately convoked by the President of the Council, with a view to agreeing to any modifications to be made in the provisions of the Treaty.

Such amendments shall enter into force after having been ratified by all the member States in conformity with their respective constitutional processes.

ARTICLE 127. As used in the present Treaty, the words "the present Treaty" shall mean the provisions of this Treaty and those of the Military Protocol, of the Protocol concerning Jurisdiction, of the Protocol concerning Military Criminal Law, of the Financial Protocol, of the Protocol concerning the Remuneration of Civil and Military Personnel and their Pension Rights, of the Protocol concerning the Grand Duchy of Luxembourg, of the Protocol concerning Relations between the European Defense Community and the North Atlantic Treaty Organization and of the Protocol concerning Guarantees between the European Defense Community and the North Atlantic Treaty Organization.

ARTICLE 128. The present Treaty is concluded for a period of 50 years from the date of its entry into effect.

If, before the establishment of a European federation or confederation, the North Atlantic Treaty should cease to be in effect or there should be an essential modification in the membership of the North Atlantic Treaty Organization, the High Contracting Parties shall examine together the new situation which shall thus have arisen.

ARTICLE 129. Any European State may request to accede to the present Treaty. The Council, after having obtained the opinion of the Commissariat, shall act by unanimous vote, and shall also fix the terms of accession by unanimous vote. Accession shall become effective on the day on which the instrument of accession is received by the Government acting as depositary of the Treaty.

ARTICLE 130. The present Treaty, drawn up in a single original, shall be deposited in the archives of the government of the French Republic, which shall transmit a certified true copy to each of the governments of the other signatory States.

As soon as it shall have assumed its functions, the Council shall establish authentic texts of the present Treaty in the languages other than that of the original. In the case of discrepancies, the text of the original shall govern.

ARTICLE 131. The present Treaty shall be ratified and its provisions applied in accordance with the constitutional rules of each member State. The instruments of ratification shall be deposited in the archives of the Government of the French

Republic, which shall notify the Governments of the other member States when the instruments have been so deposited.

ARTICLE 132. The present Treaty shall enter into effect on the date of the deposit of the instrument of ratification of the last signatory nation to accomplish that formality.

In the event that all the instruments of ratification have not been deposited within a period of six months following the signature of the present Treaty, the governments of the States which have made such deposit shall consult among themselves on the measures to be taken.

IN WITNESS WHEREOF the undersigned Plenipotentiaries have affixed their signatures at the end of the present Treaty and have thereto affixed their seals.

DONE at Paris the twenty-seventh day of May one thousand nine hundred fifty-two.

AGREEMENT PROVIDED FOR IN ARTICLE 107 (PARAGRAPH 4-B)

The territory provided for in paragraph 4b of Article 107 of the Treaty is the territory situated to the west of the red line inscribed on the map annexed hereto. [Map not reproduced.]

This line follows the German-Dutch frontier up to the Rhine, the course of the Rhine to Cologne, passes to the east of Troisdorf, rejoins the Rhine at Bonn, follows the Rhine until Mainz, passes to the east of Darmstadt, rejoins the Neckar at Heidelberg, follows the Neckar until Esslingen, passes through Ulm, and rejoins the eastern extremity of the lake of Constance.

Signed at Paris, May 27, 1952.

COMMON DECLARATION BY THE FOREIGN MINISTERS

The governments represented at the Conference of Foreign Ministers in Paris,

Aware of the essential importance of Article 5 of the Treaty establishing the European Defense Community,

In view of Article 128 (new numbering) of the said Treaty, providing that such Treaty is concluded for a period of 50 years following the date of its entry into effect,

Express the wish that the provisions concerning the duration of the North Atlantic Treaty be adopted to those of the said Article 128.

Consider it desirable that the necessary initiative to this end be taken by the States parties to the North Atlantic Treaty which are participating in this Conference.

These governments agree to take such initiative.

SPECIAL PROTOCOL

The Governments of the signatory States of the Treaty establishing the European Defense Community, signed this day, agree to consult together with a view to reaching an agreement which shall form the basis for the decision of the Council of Ministers of the Community provided for in Article 12, paragraph 2 of the Military Protocol annexed to the said Treaty.

SPECIAL PROTOCOL

The Governments of the signatory States of the Treaty establishing the European Defense Community, signed this day, agree to take all appropriate measures to facilitate the adherence of the Community as such to international Conventions relating to the laws of war.

MILITARY PROTOCOL

Desirous of assuring application of Articles 9 and 15 of the Treaty, the member States of the European Defense Community have agreed to the following:

CHAPTER I—BASIC UNITS

ARTICLE I—LAND FORCES. 1. The basic unit, which shall be of homogeneous nationality, is the "Groupement" in which the action of the various elements comprising the land forces shall be combined on an organizational level.

2. Three principal types of Groupements are defined hereinafter:

- a. Infantry Groupement
- b. Armored Groupement
- c. Mechanized Groupement

Their general structure and their total complement are shown in Tables 1 (A), 1 (B), and 1 (C) below.

3. The Groupements and Brigades of the "Mountain" type already in existence shall retain their present form. The other types of single-nationality Groupements which it will be necessary to form for operational requirements shall be defined by a decision of the Commissariat.

In the event that the complement of these latter Groupements exceeds that of the types defined above, the complement figure shall be subject to the unanimous approval of the Council.

TABLE 1 (A)

*General Structure and Total Complement of the Infantry Groupement Command**Command*

1 Groupement General Staff and 1 Headquarters Company

Arms

- 1 Reconnaissance squadron
- 3 Infantry regiments of 3-battalion strength each
- 1 Tank battalion ¹
- 1 Groupement artillery motorized in 5 groups ¹
 - 3 "light" howitzer groups
 - 1 "medium" howitzer group
 - 1 anti-aircraft artillery group
- 1 motorized engineering battalion
- 1 Signal Company

¹ "Battalion" or "Regiment": for all units of the armed forces and the Cavalry, the terminology adopted will take national traditions into account; in the case of the Artillery, "Group" corresponds to the U. S. term "Battalion."

Services

- 1 Equipment Company
- 1 Supply Company
- 1 Medical battalion
- Military police and traffic guides
- Personnel staff (Company-cadres)

Total Complement of Infantry Group

Maximum peacetime complement.....	² 13,000
Wartime complement.....	15,600

² Not including cover units.

TABLE 1 (B)

General Structure and Total Complement of Armored Groupement

Command

- 1 Groupement General Staff and 1 Headquarters Company
- 3 Sub-Groupement General Staffs

Arms

- 1 Reconnaissance battalion
- 4 Tank battalions
- 4 Infantry battalions forming a corps (if possible, mechanized "tout-terrain". Otherwise, and at the minimum, 2 mechanized battalions and 2 battalions carried as "tout-terrain").
- 1 Groupement Artillery (self-propelled) in 5 groups:¹
 - 3 "light" howitzer groups
 - 1 "medium" howitzer group
 - 1 anti-aircraft artillery group
- 1 Mechanized Engineering Battalion
- 1 Signal Company (reinforced)

Services

- 1 Equipment Battalion
- 1 Supply Battalion
- 1 Medical Battalion
- Military Police and traffic guides (reinforced)
- Personnel staff (Company-cadres)

Total Complement of Armored Group

Maximum peacetime complement.....	² 12,700
Wartime complement.....	14,600

¹ See Table 1 (A).

² Not including cover units.

TABLE 1 (C)

General Structure and Total Complement of Mechanized Groupement

Command

- 1 Groupement General Staff and 1 Headquarters Company
- 3 Sub-Groupement General Staffs

Arms

- 1 Reconnaissance battalion ¹
- 3 Tank battalions ¹
- 6 Infantry battalions forming a corps (carried as "tout-terrain")
- 1 Groupement Artillery, motorized in 5 groups (same type as Artillery of Infantry Groupement) ¹
- 1 Motorized Engineering Battalion
- 1 Signal Company (reinforced)

Services

- 1 Equipment Battalion
- 1 Supply Company
- 1 Medical battalion
- Military police and traffic guides
- Personnel staff (Company-cadres)

Total Complement of Mechanized Group

Maximum peacetime complement.....	² 12, 700
Wartime complement.....	14, 700

¹ See Table 1 (A).
² Not including cover units.

ARTICLE 2—AIR FORCES. 1. The European Air Forces shall comprise a single type of basic Unit of uniform structure. Only the personnel and equipment shall vary according to the speciality of the Unit.

The basic Unit shall be as mobile as possible.

2. Each Unit, commanded by a Chief assisted by a General Staff, shall include the following three Groups:

A combat Group composed in principle of three identical squadrons and constituting the operational element of the Unit;

A technical Group composed of a maintenance squadron and a supply squadron, the purpose of which is to ensure the upkeep, repair (second echelon) and supply requirements of the Unit;

A general purpose Group ("Groupe des moyens generaux") to serve the general housekeeping requirements of the Unit at an air base.

3. The personnel complement and the equipment are shown in the following table.

Table on Air Force Personnel Complement and Equipment of Basic Units

- 1. The average complement of the basic Unit shall be as follows:
 - Maximum peacetime complement..... 1, 300 men.¹
 - Wartime complement..... 2, 000 men.
- 2. The equipment of the basic Units shall be as follows:
 - Tactical pursuit.....
 - Interceptors.....
 - All weather pursuit..... 26 planes (12 planes per squadron).
 - Reconnaissance..... 54 planes (18 planes per squadron).
 - Light Bombers.....
 - Transports.....

¹ Barring special necessities justifying a modification of this complement.

ARTICLE 3—NAVAL FORCES. The Naval Forces shall be organized in groupements of homogeneous nationality, broken down into subordinate elements (groups, flotillas, fleets, etc.) and corresponding to one operational sector or one tactical mission.

ARTICLE 4. Insofar as the general lines of their organization and their personnel complement are concerned, the types of basic Units of the European Defence Forces may be modified only in accordance with the provisions of Article 44 of the Treaty.

The provisions included in the present Chapter in no way prejudice the details of the future organization, and necessary adjustments may be made by a decision of the Commissariat at the time of establishment of the rules of application.

CHAPTER II—GENERAL ORGANIZATION AND FORMATION OF THE EUROPEAN DEFENSE FORCES

ARTICLE 5. The EDF shall be organized into:

Central institutions

Territorial military commands

Troop commands

ARTICLE 6. The *central institutions* of the Commissariat shall be established as soon as the Treaty becomes effective. They shall carry out the build-up operations progressively in such a way that these operations shall not entail any diminution in effectiveness as regards either the Forces assigned to the Community or those remaining under national authority.

In this connection, the central Headquarters shall, as of the date of entry into effect of the Treaty, assign to each of the member States a Deputy who shall have the responsibility of directing the build-up of the contingent furnished by that State, according to the instructions and under the supervision of the Commissariat. This Deputy shall be a citizen of the country in question and shall have at his disposal a detachment of the Central Headquarters which shall be integrated according to command, instruction and liaison requirements.

ARTICLE 7. 1. A European territorial military organization shall be constituted by this Deputy, through creation, where none exists, of a territorial military system and by adaptation where one exists.

This organization shall have European Territorial Military Regions as its basis and the boundaries of these Regions shall be fixed and modified by the Commissariat with the concurrence of the Council by unanimous vote.

The Deputy of the Central Headquarters shall have at his disposal the Commands of these Regions, together with the facilities of the detachment from the Central Headquarters, to set up the contingents for which he is responsible.

2. The European territorial military organization thus constituted shall, at the same time that it contributes to formation of contingents, be responsible for

fulfilling the needs of European and national forces. It shall operate, also, as needed, for the benefit of NATO forces. Finally, it shall cooperate with services the competence of which remains national.

This organization shall be integrated according to the type of troops that they serve.

While of European status, it is submitted to two authorities, that is, to the Commissariat and to the appropriate government departments. As concerns the latter, the Deputy of Central European Headquarters shall be subject to their orders in matters within their competence.

Internal police forces may use the services of the European Military Territorial Organization.

ARTICLE 8. The Member States shall, as of the date of entry into effect of the Treaty, and to the extent that they do not already have such organizations, establish the services and institutions necessary for the accomplishment of their obligations under the Treaty.

The Minister responsible for matters which remain national in each Member State or charged with European Defense Affairs shall have at his disposal the Deputy of the Central European Headquarters and the European Territorial Commands for the exercise of his functions.

ARTICLE 9. 1. *European Troop Commands*, that is, *integrated* Commands shall be formed:

Some of them as soon as the Treaty becomes effective, to command formations already existing and prepare the integration of other formations;

Others within a very short period of time, so that they can, while they are being organized, perform functions of supervision in the preparation of units which will subsequently incorporate.

2. *Transfer of units* to Troop Commands shall take place when these Commands having been formed and being in condition to perform their functions, the elementary units have attained a degree of preparation permitting them to be grouped in Large Units.

In each case the Commissariat shall decide on the transfer.

ARTICLE 10. The period of time allotted for the formation of the forces at the end of which the mission of the Deputy from Central Headquarters ends shall be fixed by decision of the Commissariat. It shall not exceed eighteen months from the date of entry into effect of the Treaty except with the unanimous concurrence of the Council.

The final organization of the Territorial Commands to be then put into effect in the European Defense Community shall be determined, before the expiration of the period of time mentioned in the preceding paragraph, by decision of the Commissariat taken with the concurrence of the Council, the latter being given by two-thirds majority vote.

Chapter III—Personnel

ARTICLE 11. The Commissariat shall elaborate the texts relative to the recruiting and organization of personnel of the European Defense Force within the framework of the general principles defined below.

Until such time as these texts go into effect, the pertinent legislation and regulations of the member States shall remain in effect.

SECTION I—RECRUITMENT

ARTICLE 12—*General considerations.* 1. All male citizens of the member States shall be subject to military service unless physically, mentally or morally unfit, and except as provided in the Constitutions or laws of the member States.

2. Decisions on the length of service shall be taken by unanimous vote of the Council.

In all the member States, the period of active service shall be fixed at a minimum of eighteen months. This minimum can be changed by unanimous vote of the Council.

The same conditions as for active service shall apply for regulatory services in the reserves.

3. The operations for building up and supplying the Armed Forces shall comprise the following:

- the census and classification of citizens of military age;
- the call to active service;
- enlistment and re-enlistment of personnel serving on a long-term basis;
- administration of reserves.

These three categories of operations shall be divided between the national organizations and the Commissariat.

4. The European Defense Forces shall be recruited as follows:

- By total or partial conscription of age groups;
- By enlistments (on a long-term basis or by voluntary anticipation of conscription) and by re-enlistments.

5. In the event that the number of citizens fit for military service exceeds the requirements of the Armed Forces, the necessary reduction shall be made by means of exemptions based on social, economic and professional considerations appropriate in each member State, although such action shall not impair the military effectiveness of the contingents.

Citizens exempted from active service shall remain subject to the other military obligations of their age class.

ARTICLE 13—*Call to active duty.* 1. The census lists shall be drawn up by the competent services, on the basis of the principles previously laid down.

2. The persons whose names are on the census lists shall appear before a review board which shall determine their aptitude for service.

3. These persons shall be called to active duty in various numbers over a period of time depending upon requirements and on the basis of their dates of birth, in the year in which they reach the age specified for entry into military service.

Temporary deferments may be granted up to a certain age for social, economic and professional reasons appropriate in each member State as well as for residence abroad, provided the military effectiveness of the contingents is not impaired thereby.

ARTICLE 14—*Recruitment of officers and non-commissioned officers.* 1. The detailed methods for the recruitment of Officers and Non-Commissioned Officers shall be drawn up by the Commissariat.

The general conditions to be fulfilled for acceding to each of these categories are given below:

2. *Active Officers* are recruited from among the following:

Candidates fulfilling the required conditions of aptitude who have completed the legal period of troop service.

Non-Commissioned Officers;

Reserve officers admitted to active cadres.

3. *Reserve officers* are recruited from among the following:

Candidates having shown sufficient aptitude following the appropriate training courses either during the period of service or during periods in the reserves;

Active officers who have resigned or retired.

4. *Active non-commissioned officers* are recruited from among the candidates showing sufficient aptitude:

During the period of enlistment or reenlistment, in the case of volunteers;

During the period of required military service, in the case of conscripts.

They may become career non-commissioned officers.

5. *Reserve non-commissioned officers* are recruited from among the candidates showing sufficient aptitude:

During or at the end of their required military service, in the case of conscripts;

During the period of enlistment or reenlistment or at the end of this period, in the case of volunteers;

During periods in the reserves, in the case of personnel having been released from active duty.

SECTION II—DISCIPLINE

ARTICLE 15. As provided under the provisions of Article 78 of the Treaty, a single body of General Regulations on Discipline shall be drawn up, applicable to the entire European Defense Force. National regulations shall remain in effect until the common regulations are approved. These common regulations shall be drawn up as rapidly as possible and shall be applied simultaneously to all contingents.

ARTICLE 16. 1. Members of the European Defense Force shall conduct themselves in a manner befitting the high mission with which they are entrusted. They shall respect civil laws and regulations and local customs.

They shall abstain from any act tending to offend the religious convictions of others.

All appropriate measures shall be taken to enable them to practice their religion.

2. Members of the European Defense Force have the same obligations toward the Community and its command echelons as military personnel of national armies normally have toward their Government and their own command. The most important of these duties are:

- loyalty to the Community;
- obedience to the laws and regulations of this Community;
- obedience to the European military leaders, regardless of nationality.

ARTICLE 17. 1. Incorporation of units into the European Defense Force shall be marked by a solemn demonstration of allegiance to the Community in which the traditions of each contingent shall be taken into account.

2. The members of the European Defense Force shall render honor to the flags, standards, and banners of the European Defense Force and of the member states, as well as to the European emblem.

ARTICLE 18. The subordinate shall obey his superiors for the good of the service to the extent connected with observance of the law, customs of war, the execution of military regulations; he may appeal any measures considered irregular or any punishment which he deems unjustified under the rules laid down in the General Regulations on Discipline, and subject to the provisions of the Military Code of Justice.

ARTICLE 19. The superior must always set an example for his subordinates both in his respect for discipline and his observance of the regulations.

The superior should extend the benefit of his experience to his subordinates, should have their material and moral interests at heart, and should avoid any measures which might offend their dignity.

He shall be expected to leave to each subordinate the greatest possible initiative and shall not interfere in the exercise of command of subordinate authorities.

ARTICLE 20. A standard regulation shall be drawn up relative to the nature of rewards and punishments, the definition of infractions, and the determination of the rights of each person in such matters.

SECTION III—RANK AND ASSIGNMENT

ARTICLE 21—*General considerations*. 1. The basic texts relative to rank and assignment shall cover the following in particular:

- lists of cadre quotas (“tableaux d’encadrement”),
- rules for advancement,
- rules assuring a career service to professionals,
- principles of administration and management of personnel.

The Commission shall prescribe the methods of applying the above texts.

2. The number of ranks is fixed as follows:

- 4 for enlisted men,
- 5 for non-commissioned officers,
- 3 for junior officers,
- 3 for senior officers,
- 4 for general officers.

ARTICLE 22—*Provisions guaranteeing rank and assignment.* 1. Members of the European Defense Force may not lose their rank or assignment or be struck from Army rosters except for specified reasons.

2. Appropriate provisions shall be included in the General Regulations on Discipline and the Military Code of Justice.

These provisions shall be based on the following general considerations:

a) loss of rank may be decided only by judgment of a Tribunal or by way of disciplinary punishment under certain conditions;

b) temporary suspension from assignment as a disciplinary measure or for any other serious reason may occur only in strictly defined cases;

c) the striking of personnel from Army rosters is possible only in the following cases:

resignation, within the provisions of the regulations in effect;

attainment of the age limit or the end of the service period;

physical disability, professional incompetence, grave misdemeanor or habitual misconduct;

conviction by a legally recognized court.

d) In the case of officers and non-commissioned officers, measures affecting rank or assignment pursuant to a disciplinary measure may be taken only after the report of a Board of Inquiry.

ARTICLE 23—*Officers.* 1. Advancement shall be governed by the basic texts drawn up by the Commissariat within the framework of the provisions of Article 31 of the Treaty.

Officers will compete among themselves for advancement within their own contingent, up to and including the rank of General of Division.

2. Appointments to the command of a basic unit; to the rank of general officer, with command over units of different nationality; and to certain higher position in the Commissariat as determined by the Council, shall be conferred by the Commissariat with unanimous concurrence of the Council.

3. All other appointments are conferred by the Commissariat, taking account of the recommendations of the commands concerned.

Decisions on appointments below the rank of colonel may be delegated to corps commanders.

4. The list of appointments to each rank shall be determined by the tables of organization.

5. The over-all distribution of appointments in integrated units shall be in conformity with the tables of organization for the member States.

ARTICLE 24—*Non-commissioned officers and men.* *Advancement:* Advancement of non-commissioned officers and men shall take place within each contingent in conformity with the general instructions issued by the Commissariat.

Assignment: Similarly, the Commissariat shall specify in its instructions the general rules for assignment of non-commissioned officers.

ARTICLE 25—*Detachment of personnel.* Personnel of the European Defense Force may be detached individually from this Force for missions outside the Defense Community. For the duration of the period of detachment, the Commu-

nity shall be relieved of responsibility for their upkeep, and shall no longer have direct authority over them, but shall continue to maintain their service records with those of their original organization according to rules to be determined.

CHAPTER IV—PRINCIPLES CONCERNING STANDARDIZATION OF DOCTRINES AND METHODS; SCHOOLS

ARTICLE 26—*Standardization of doctrines and methods.* 1. In conformity with Article 73 of the Treaty, the training and the conditioning of the European Defense Force shall be carried out on the basis of a common doctrine and uniform methods, drawn up in cooperation with the appropriate NATO organizations and according to its directives.

2. This doctrine and these methods will be the subject of common regulations applicable to all contingents comprising the European Defense Force.

ARTICLE 27—*Schools.* 1. The following shall be created as soon as the Treaty goes into effect:

Courses for General Officers and General Staff Officers;

Courses for Officers called to the following Commands:

Land forces: Basic unit and Regiment

Air forces: Equivalent units

Courses for School Commanders and their principal staff instructors;

Courses for liaison officers of at least bilingual ability;

Courses for interpreters;

Courses for training certain cadres and specialists essential to the European Defense Community as a whole (Signal Radar Air support, Air and Anti-Aircraft Defense, Amphibious Operations, etc.).

These courses shall be organized by the Commission and placed under its direct responsibility. They shall be on an inter-service basis whenever this may prove necessary.

2. As soon as possible and in accordance with the needs of the Community, all Schools in existence on the effective date of the Treaty shall become European, with the exception of those which are necessary for the formation and training of armed forces which remain national by virtue of the Treaty.

Schools to be created by the Community shall be European from the date of their establishment.

All such schools shall be subject to the following general rules:

development of the spirit of European cooperation;

inspection by the appropriate organizations of the Commissariat;

synchronized formation and training phases in order to achieve similar training results, with the programs being drawn up according to the directives issued by the Commissariat;

organization of joint instruction periods to be developed to the fullest extent possible;

intensive teaching of languages.

Advanced training schools shall be integrated.

Officer training schools and service schools shall also be integrated. They may, however, consist of sections of a single nationality to facilitate instruction.

On a transitional basis, and for as brief a period as possible, officer training schools and service schools shall operate under the jurisdiction and the responsibility of the Commissariat, the direction of such schools being integrated and the teaching staffs and students of a single nationality if found desirable. In this latter case, such training shall take place in the country of origin.

Schools for the formation of certain categories of non-commissioned officers and specialists shall be subject to the same regulations as the officer training schools and the service schools.

3. The organization of schools and teaching establishments in the European Naval Force shall be effected within the general framework of the principles defined above, taking into account the special characteristics of this Force.

4. As concerns countries with more than one official language, the application of the measures in the present Chapter shall be subject to the provisions of Article 74 of the Treaty.

CHAPTER V—USE OF LANGUAGES

ARTICLE 28. 1. Every member of the European Defense Forces shall employ his national language, subject to the provisions of this chapter.

2. Measures shall be taken to promote, within the European Defense Community, the study of the various national languages of the member States, in accordance with rules to be determined when the curriculum of the European schools is established.

3. In the event that knowledge of an auxiliary language shall be rendered necessary by practical considerations, such auxiliary language shall be taught in the basic schools in a manner to be determined by the Commissariat with the unanimous concurrence of the Council.

ARTICLE 29. 1. By "reference language" is meant the language which shall prevail in case of misunderstanding or difficulty.

The reference language shall be the language of the authority from which issue the orders, instructions, etc. For all training commands, the reference language shall be that of the command. French shall be the reference language of the Commissariat.

2. Communications made to a subordinate echelon shall be in the language of that echelon; in principle, such communications should also be made in the reference language.

3. Communications made to a higher echelon shall be in the language of the echelon in which the communications originated.

4. Communications between echelons not in the same chain of command shall be in the language of one or the other of them, as may prove most practical.

In case of difficulty, the common auxiliary language shall be used.

5. The auxiliary language shall be considered as an alternative language to be used obligatorily for all procedural communications (radio, codes, passwords, etc.) or in case of difficulties in use of the other languages.

JURISDICTIONAL PROTOCOL

TITLE I—REPARATION OF DAMAGES

Chapter I—Responsibility

ARTICLE 1. The Community shall make reparation for the damage caused by the dereliction of its services.

ARTICLE 2. 1. The Community, even when not at fault, shall be responsible for damage caused within the buildings and installations under its charge, without prejudice to the possible responsibility of the owner of such property, who remains liable in conformity with national law.

In this case, the responsibility of the Community may be evaded or lessened only to the extent that such damage is proved to be the fault of the victim or of a third party or is the result of an act of God.

2. The Community shall be responsible under the same conditions with reference to any of its activities which especially endanger third parties.

3. Until such time as there is established common legislation on civil responsibility as regards damage caused to third parties in matters of transportation, the regulations set forth above shall be applied by the competent organizations of the Community, in such a way as to achieve the utmost harmony among the principles of the national legislation of the member States, to the extent that this is in keeping with respect of the above regulations.

ARTICLE 3. When the operation of the services of the Community or the buildings and installations under its charge subject third parties to an exceptionally serious risk, the responsibility of the Community may be evaded or lessened only to the extent that it is proved that the damage is due to the fault of the victim.

ARTICLE 4. The Community shall be responsible for that damage caused to roads or public installations as a result of utilization thereof by its Forces or its Services which exceeds appreciably either by its nature or by its extent the damage resulting from ordinary utilization of the above facilities.

ARTICLE 5. Unless otherwise stipulated, the Community shall make reparation for damage caused to property placed at its disposal, by virtue of an agreement with one of the member States of the Community or with an agency of these States.

ARTICLE 6. The Community shall make reparation for the damages caused by the fault of its agents in the exercise of their functions.

Agents shall not be responsible toward third parties as a result of such acts.

ARTICLE 7. Agents of the Community shall be personally responsible toward third parties, according to the applicable local law and before the competent jurisdiction under common law, for damage for which they are at fault and which was committed outside the exercise of their functions.

In case of dispute on the point of whether the act causing damage was performed during the exercise of functions, the case shall be brought before the territorially competent court, which shall give final decision on this point, unless

such case is covered under the conditions provided in Article 13 below.

Notwithstanding the provisions of paragraph 1 of the present Article, an indemnity may be granted voluntarily by the Community to the injured party, taking into account all the circumstances of the case, particularly the conduct and behavior of the victim. The decisions taken by virtue of the present paragraph may not be appealed.

ARTICLE 8. When a particularly serious act committed by one of its agents has caused the Community direct damage or when by such act the responsibility of the Community is involved in accordance with the provisions of the present Chapter, such agent may be condemned to make reparation for all or part of the damage caused the Community by his act.

ARTICLE 9. Each member State shall refrain from demanding an indemnity of the Community in the event that a member of its armed forces forming part of the Community suffers bodily injury in line of his duty.

Chapter II—Procedure

ARTICLE 10. 1. Without prejudice to the provisions of Article 16 below, claims for indemnity shall be submitted to local Indemnity Commissions, of which the number, the territorial jurisdiction and the procedures shall be fixed by regulations drawn up by the Commissariat.

2. These Commissions shall be composed of:

a President appointed by the Commissariat or by the authority to which the latter shall have delegated its powers for this purpose, from among persons having all the necessary qualifications for legal competence in such matters and possessing the nationality of the receiving State;

a member appointed by the Commissariat from among the citizens of member States other than those of the receiving State;

a member of the European Forces appointed by the locally competent European military authority.

3. The Commission shall examine the claims for indemnity and proceed with any investigations, verifications, and appraisals which may seem necessary. Within the limits of the powers delegated to him by the general instructions of the Commissariat, the President shall strive to promote an amicable settlement with the claimant.

If an amicable settlement is not reached, the Commission shall determine the indemnity due the claimant. The decision of the Commission shall be taken by majority vote. Reasons for the decision shall be given.

The Commission may decide that an advance on account of the indemnity shall be paid to the claimant, notwithstanding any recourse to appeal.

ARTICLE 11. The decision of the Commission may be appealed by the claimant within two months after notification of such decision or by the Commissariat as soon as such decision has been pronounced. Appeal on a point of law may be filed within the period specified by the provisions governing procedure before the Court.

Without prejudice to the provisional measures provided for in paragraph 3 of Article 10 above, the decisions of the Commission shall become final prior to the expiration of the appeal period only if the claimant and the Commissariat forego the exercise of their right of appeal. Appeal shall be a stay of judgment.

ARTICLE 12. Appeal shall be filed before a regional section of the Court composed of one of the judges of this jurisdiction, who shall preside, assisted by four magistrates of the Community. The latter shall be of the nationality of the receiving State. In certain categories of cases, the regional court may consist of only three judges.

Decisions of the Council, taken at the request of the President of the Court and after consultation with the Commissariat, shall fix the number and the territorial jurisdiction of the sections as well as the conditions under which these sections may eventually be called upon to sit in several localities under their jurisdiction.

The regional sections shall examine the case, complete the judicial inquiry if necessary, and make final judgment.

ARTICLE 13. When a case involves questions of principle, it may be referred to the Court either by the [regional] or by its President after consultation with the assessors whenever the amount of the claim exceeds three thousand United States dollars. When the amount of the claim does not exceed three thousand United States dollars, the Commissariat may, when the case involves questions of principle, file an appeal before the Court in the interest of law against the decision of the regional section; this last decision shall be a final decision binding on all parties.

For judging the cases with which it is seized by virtue of the provisions of the preceding paragraph, the Court shall include the judges who preside over the regional sections.

ARTICLE 14. Claims based on Articles 1, 2, 3, 5 and 8 will not be accepted unless submitted within a period of five years from the date on which the act giving rise to such claims occurred. Such shall also be the case with claims of every nature based on the provisions of the present Title, as regards litigation between the Community and the member States or the territorial collectivities of these States.

In the case of claims resulting from injury to persons and damage to property caused by traffic accidents, however, the period shall be three years.

ARTICLE 15. The decisions of the Court, the decisions of the regional sections, and the final decisions of local Indemnity Commissions shall be carried into effect under the conditions specified in Article 66 of the Treaty.

ARTICLE 16. Only the Court shall be competent to rule on matters involving litigation of every nature between the Community and the member States or territorial collectivities of these States relative to application of the provisions of the present Title.

Chapter III—Special Provision

ARTICLE 17. The Community shall be responsible for damage caused by the maneuvers or exercises conducted by the European Defense Forces, as well as the damages caused by their billeting.

The conditions for reporting and estimating such damages and the periods within which claims must be submitted shall be specified in regulations issued by the Commissariat with the agreement of the Council, acting by a two-thirds majority vote, after consultation with the governments of interested member States.

TITLE II—PENAL PROVISIONS

Chapter I—Penal Provisions

ARTICLE 18. Upon the entry into effect of the Treaty, the member States shall transfer to the European Defense Community their powers to mete out punishment for the penal offenses which may be committed by the members of the European Defense Forces.

ARTICLE 19. Punishment for such penal offenses shall be provided for as soon as possible by common legislation drawn up in conformity with the constitutional regulations of each member State and which shall in addition include the regulations governing judiciary organization and procedure.

Chapter II—Transitional Provisions

ARTICLE 20. Until such time as the common legislation referred to in Article 19 above goes into effect, the provisions of the following Articles shall be applicable on a transitional basis.

ARTICLE 21. The jurisdictional powers of the Community shall be ensured under the following conditions by judicial bodies exercising a European function.

ARTICLE 22. The judicial bodies referred to in Article 21 above shall be:

1. The Court, which shall rule on the following under the conditions referred to in Article 30 below:

- a) Cases involving conflicts of jurisdiction;
- b) Questions of law concerning the interpretation of the Treaty, the annexed protocols and their supplementary provisions;
- c) All other cases which shall fall within its competence, particularly as concerns the punishment of certain offenses committed by the persons specified in Article 18 above and constituting grave injury to the interests of the Community.

2. Tribunals, which may be:

European tribunals of national composition which shall be subordinate to a regional section of the Court as regards final appeal;

national tribunals acting by delegation of the Community, in the case where the interested member State deems such a procedure necessary for constitutional reasons or for reasons relating to the general structure of judicial organization.

ARTICLE 23. The organization and the procedure of the tribunals referred to in Article 22 above, including the modifications to be made in the organization and the procedure of the regional sections of the Court in so far as they rule over penal cases, shall be regulated by the national legislation of the interested member States. These regulations shall be applied as European law with regard to European tribunals.

ARTICLE 24. Without prejudice to the provisions of paragraph 3 of Article 30 below, the persons referred to in Article 18 shall be tried by the European tribunals of their nationality or by their national tribunals acting by delegation of the Community respectively, as provided for in paragraph 2 of Article 22 above.

ARTICLE 25. Without prejudice to the exceptions provided for in the present Protocol, dependents residing at posts outside the territory of the State of origin shall be subject to the normally competent jurisdiction of the receiving State.

The exceptions referred to in the preceding paragraph shall be determined in conformity with the constitutional regulations of each of the member States.

ARTICLE 26. 1. The persons referred to in Article 18 of the present Protocol shall remain subject solely to the law of their State of origin, without prejudice to the exception provided for in the present Protocol as concerns local law.

2. Exceptions shall be determined in consideration of the following:

a) The strictly territorial nature of the application of certain regulations, especially as regards road traffic, hunting and fishing;

b) The interests of the receiving State and its inhabitants; this shall be the case in particular as concerns acts which are prejudicial to this State or are committed against its inhabitants, when the law of the State of origin does not recognize these acts as offenses or when it punishes such acts with penalties much less severe than those provided under local law.

3. For the enforcement of the law of the receiving State, a system whereby a correspondence will be established among the various penalties provided under the respective laws of the member States shall be drawn up.

ARTICLE 27. The right of pardon as regards the penalties pronounced by the judicial bodies provided for in Article 22 above against members of the European Defense Forces shall be exercised by the competent authorities of the State of origin.

ARTICLE 28. 1. The carrying out of penalties entailing deprivation of freedom shall be ensured by the authorities of the State of origin of the member of the European Defense Forces.

2. In the case of penalties entailing deprivation of freedom for a period of less than six months, however, the carrying out of such penalties may be ensured in accordance with the conditions to be set forth in the Convention provided for in Article 30 below.

ARTICLE 29. 1. In the legislation of each of the member States, the provisions punishing offenses which constitute injury to national armed forces, their installations or their members shall be applicable to acts of the same nature committed against the European Defense Forces or their members.

2. In addition, the Government of each of the member States shall submit to the legislative authority such bills as it may deem necessary for ensuring within the territory of such State the security and protection of the European Defense Forces, their installations, equipment, property, and official records and documents, as well as the punishment of violations of such legislation.

ARTICLE 30. A special Convention shall stipulate:

1) The organization of the Court, its operating procedure, including the use of languages, and its regulations of jurisdiction, within the limits specified in paragraph 1 of Article 22 above. The principle of absolute equality of the juridical regulations applied by each of the member States, whether such regulations be European or national, shall be respected for the settlement of the conflicts referred to in sub-paragraph 1a of Article 22 above:

2) The provisions necessary for ensuring an effective protection of the interests of the Community as concerns penal matters;

3) The cases in which the right of jurisdiction referred to in Article 24 of the present Protocol may be waived;

4) The exceptions referred to in Article 25. These exceptions shall be determined on the basis of the following principles:

Dependents shall be subject to the jurisdiction of judicial bodies exerting a European function when the offense is committed against the Community, the person or the property of a member of the European Defense Forces. In this case, the judicial body competent to judge the dependent shall be that body which, under the terms of Article 22, would be competent to judge the head of the family, the member of the military forces or of the civil personnel.

In every case, the authorities which shall have competence may waive their right of jurisdiction; they shall examine with the greatest consideration any request which is received prior to such time as the tribunal trying the case has pronounced its verdict and which would result in the defendant being led before a tribunal other than that which would normally be competent.

Minors, as defined by the penal code of their State of origin, shall in every case be referred to the normally competent judicial bodies of their State of origin.

In every case, the competent authorities shall notify one another of their decisions and shall keep one another informed of the subsequent action taken in all affairs;

5) The exceptions referred to in Article 20;

6) The conditions under which the organizations of the Community may institute lawsuits;

- 7) The conditions for judicial mutual aid;
- 8) The judicial competence of the military police and of the police of the receiving State and the conditions for their mutual aid;
- 9) All other provisions which might prove necessary to placing the present Protocol into effect.

TITLE III—TRANSITIONAL PROVISIONS RELATIVE TO BELGIUM

In view of the obstacles of a constitutional nature which at this time prevent total application of the provisions of the present Protocol to Belgium, the following provisions are applicable:

ARTICLE 31. In exception to the provisions of the present Protocol and on a transitional basis, as concerns offenses committed within the territory of the Belgian State by members of the European Defense Forces originating from said State, the right of jurisdiction shall be limited solely to the Belgian courts and tribunals, which shall rule by virtue of the power vested in them and in conformity with Belgian law, as regards the penal code applicable as well as the procedure and the means of ordinary and extraordinary appeal.

ARTICLE 32. In exception to the provisions of the present Protocol and on a transitional basis, in the case of damage caused on Belgian territory, the victim who does not accept the decision of the local Indemnity Commission and who does not see fit to appeal to the regional Section of the Court as provided for in Article 11 above, may, within a period of three months after notification of such decision, institute before the competent Belgian court a civil lawsuit against the Belgian State, which shall be required to make reparation for the damages in so far as its responsibility would be engaged if such damages had been caused by the operation of its own services.

In the latter case, the Belgian State, which will have been condemned to pay an indemnity, may bring suit for reimbursement against the Community before the Court of Justice, which shall rule in accordance with the terms of the present Protocol.

TITLE IV—DEFINITIONS

ARTICLE 33. *a)* The “members of the European Defense Forces” shall include the members of the military element and the members of the civil element.

b) By “civil element” is meant the non-military personnel incorporated in the services of the European Defense Forces under the conditions fixed by the competent authorities of the Community.

c) By “dependent” is meant the spouse of a member of the military element or the civil element, their minor children and, exceptionally, their parents or descendants in direct line who habitually make their residence with such member and who are authorized by the qualified authorities of the Community to accompany the head of the family.

d) By “State of origin” is meant the member State on which the members of the military element or the civil element depended before becoming part of the European Defense Forces.

e) By "receiving State" is meant the member State within the territory of which the members of the military element or the civil element of the European Defense Forces are stationed or are in transit.

ARTICLE 34. The special Convention referred to in Article 30 above shall set forth the conditions for application of the present Protocol. It shall form part of the jurisdictional statute provided for in Article 67 of the Treaty.

PROTOCOL ON MILITARY PENAL LAW

[Translation from official French text published in *Traktatenblad van het Koninkrijk der Nederlanden*, Jaargang 1952, No. 122]

The member States, in view of the essential importance of a uniform treatment of penal offenses within the European Defense Forces, have agreed on the necessity of establishing, as soon as possible, common military penal legislation, based on the general principles which constitute their common judicial heritage, and in particular on the following principles, but not restricted to them:

1. No one may be punished except for an offense expressly defined as such by law, and no penalty may be inflicted which is not expressly fixed by law;
2. Penal laws may have no retroactive effect either in the definition of the offense or in the determination of the penalty. If legislation is modified after the time of commission of the offense, the provisions most favorable to the accused shall in principle be applicable to him;
3. In the determination of penalties and in the methods provided for their execution, account shall be taken of the gravity of the offense, of the offender's knowledge of it, and of his intention to commit it; however, ignorance of the penal law cannot be a general reason for exoneration;
4. In consequence, the law should permit the penalty to be made proportionate and, in appropriate cases, its manner of execution to be adapted to the actual circumstances of the offense and to the circumstances personal to the guilty party;
5. The law should specify the cases in which the person immediately committing an offense is not punishable; in particular this shall be the case:
 - a. if, at the time of the act, he is wholly deprived of his knowledge or will. The law may, however, exclude from the benefit of this principle one who has voluntarily put himself in this condition;
 - b. if he is placed in the necessity of acting or refraining from action as the result of physical or moral restraint irresistible for him;
 - c. if he has received a legitimate order from a qualified authority;
 - d. if he has acted by way of legitimate defense;
6. The law should take account of the age of the offender in order to determine whether he is punishable or whether the penalty should be mitigated and to what extent;
7. The principal penalties shall be: the death penalty, deprivation of liberty, and, lastly, fines.

8. Life imprisonment may be substituted for the death penalty in the case of guilty persons coming from [*originaires de*] countries in which the latter penalty has been abolished;

9. The law may provide penalties to be added to the principal penalties, whether as necessary consequences of the latter, or upon special decision of the judge. For certain offenses, finally, these same penalties may be established as principal penalties.

In all its provision, the common legislation shall assure respect for the liberties and fundamental rights of the human person. In particular:

—no one shall be subjected to torture nor to cruel, inhuman, or degrading penalties or treatment;

—no one shall arbitrarily be arrested or detained;

—all parties shall be equal before the law and all guarantees necessary to their defense shall be assured to them; they shall be presumed innocent until their guilt has been legally established.

DONE at Paris, May twenty-seventh 1952.

FINANCIAL PROTOCOL

The High Contracting parties,

Desirous of completing and defining the procedures for applying the financial provisions of the Treaty instituting the European Defense Community,

Have agreed as follows:

TITLE I—PREPARATION OF THE COMMON BUDGET

ARTICLE 1. The Commissariat prepares the budget. For this purpose there will be a Finance Administration empowered to establish the estimate of receipts and to centralize the expenditures proposed by the responsible services and which can be modified with the agreement of the latter. This Administration shall, at the proper time, give notice of the procedures and the dates on which expenditure estimates must be submitted. These estimates must be supported by appropriate documentation.

The Financial Controller shall give his opinion on the draft budget.

TITLE II—CONTENT OF THE COMMON BUDGET

ARTICLE 2. The common Budget may include an ordinary section and an extraordinary section, the latter being characterized by either the extraordinary nature of the expenditure or the extraordinary nature of the receipt.

ARTICLE 3. Expenditures entered in the common Budget shall be classified according to the principal services of the Community and according to the nature of the expenditure.

Within these classifications, expenditures shall be grouped in chapters and each chapter shall include only expenditures of the same nature. If necessary, chapters may be subdivided into articles.

ARTICLE 4. The draft Budget must give all information needed to appraise the amount and the purpose of the expenditure. To the extent that it is not contrary to military secrecy, such information shall be given in budgetary documents which are made public.

ARTICLE 5. The common Budget shall cover all of the receipts and expenditures of the Community without there being any offsetting of a receipt by an expenditure or vice versa. The Budget shall not show attribution of a receipt to an expenditure, with the possible exception of the extraordinary section.

ARTICLE 6. For the execution of the common armament, equipment, supply and infrastructure programs extending over several years, the budget carries the authorizations and estimates necessary for the whole program in the form of program authorizations as well as in the form of payment authorizations for the cash expenditures of this program within the year in question.

ARTICLE 7. An annexed document is included in the Budget which shall indicate the countries in which in principle the different expenditures are to be made.

ARTICLE 8. In application of Article 89 of the Treaty, the Commissariat may, with the agreement of the Financial Controller, shift budgetary credits to take care of expenditures less than 10,000 accounting units and which do not entail commitments on the part of the Community covering several fiscal years.

ARTICLE 9. There can be inscribed in the receipts and expenditures of the Budget sums which are not destined for the payment of the expenditures of the Community itself. These sums, which only transit the common budget, are recorded in a special section.

The Community, which does not exercise any control whatsoever over the use of these sums and which does not have the obligation for their financing, is discharged of all responsibility involved in the transit by remitting the sums to the recipients.

ARTICLE 9 BIS. The Council shall conduct the negotiations concerning support costs which are provided for in the Treaty signed at Bonn on 26 May 1952. The Council may, by unanimous vote, delegate this function to the Commissariat. Decisions to be taken as a result of these negotiations shall be taken by unanimous vote.

ARTICLE 10. The payment credits which are not utilized at the end of the year shall be annulled unless there was provision for the possibility of a carryover at the time the Budget was voted.

If there is a deficit at the close of the fiscal year, a budgetary credit shall of necessity be provided, either in the current Budget or in exceptional cases in the budget following the current budget in order to cover such a deficit.

If there is a surplus, it shall be paid into a reserve fund. The total of this reserve fund shall not exceed $\frac{1}{10}$ of the total of the highest budget during the last five years. Use of the assets of the reserve fund shall be decided within the framework of the Budget.

TITLE III—EXECUTION OF THE COMMON BUDGET

ARTICLE 11. The Budget shall be executed in accordance with the principle of the separation of the functions of authorizing payments and disbursement. Appropriations shall be administered and payment orders issued by officials attached to the various services of the Community. Actual payment of expenditures and receipt of money shall be handled by accountants who receive their instructions directly from the Finance Administration and who are responsible for their administration.

ARTICLE 12. The President of the Commissariat shall be the principal agent authorizing payments for the Budget. He may, on the advice of the Finance Administration, delegate his powers to other members of the Commissariat and to the various service chiefs of the central administration or of the lower services. These deputies can administer funds only within the limits of the powers entrusted to them. The services administering funds shall periodically notify the Finance Administration of the situation of their commitments.

ARTICLE 13. Aside from the limits set for their handling of funds, the administrators can authorize expenditures only within the limits of the monthly authorizations which they are granted by the Finance Administration. These authorizations shall be determined on the basis of on the one hand requirements, and on the other hand of cash availabilities. The administrators may be held personally responsible for any excess of authorizations arising from their management.

ARTICLE 14. The sole fact that a receipt or an expenditure has been entered in the Budget shall not create rights or obligations vis-a-vis third parties. Any debt or claim can result only from a decision of the proper administrative authority.

ARTICLE 15. The Council shall unanimously approve every decision of the Commissariat which entails the acknowledgment of a debt by the Community or which limits the free disposal of the assets of the Community.

ARTICLE 16. The recovery of the claims of the Community shall be handled by the Finance Administration. The Commissariat is empowered, in case of necessity, to grant an extension (except in the special case of contributions). It may, with the consent of the Financial Controller, for an amount limited to 5,000 accounting units grant remission of debts; in case of amounts over 5,000 accounting units a Council decision is necessary.

ARTICLE 17. All purchases, sales or exchange of property shall be covered by a special regulation of the Commissariat.

ARTICLE 18. The Commissariat is empowered, in the name of the Community, to place all contracts covering expenditures provided for in the Budget, in conformity with the methods set forth in this Budget. The procedures for letting contracts will be prescribed in a special regulation of the Commissariat. The contracts let within the Community shall normally be payable in the currency of the member State concerned.

The Commissariat shall also be empowered to place contracts covering expenditures not provided for in the Budget, on condition that they amount to less than 10,000 accounting units and that it does not increase the total volume

of the Budget. It shall give an accounting at the next meeting of the Council. If the contract exceeds 10,000 accounting units a decision of the Council, by a two-thirds majority, shall be required.

ARTICLE 19. All payments shall presuppose the presentation of documents in proof of the service performed. It shall be the responsibility of the Finance Administration, in agreement with the accounting organizations, to define the nature of such documentary evidence.

ARTICLE 20. In the cases and within the limits authorized by the Finance Administration, funds may be placed at the disposal of certain of the services which shall have the responsibility of subsequently justifying the use of these funds. The renewal of these advances shall be subordinated to the justification of the use of previous advances.

TITLE IV—CURRENT CONTROLS OF THE EXECUTION OF THE COMMON BUDGET

ARTICLE 21. Current controls on the execution of the common budget, aside from the powers of the Financial Controller himself, shall be carried out by the services of the Commissariat and the other institutions of the Community.

ARTICLE 22. The Financial Controller shall have a dual mission: *He shall give opinions.* In this connection, all budgetary documents, all draft statutes, and armament equipment, supply and infrastructure plans to be covered by budgetary expenditures shall be submitted to him for his opinion.

He shall check on the regularity of expenditures. In this connection, all expenditure commitments as well as payment orders in the measure necessary to the effectiveness of his control shall first be submitted to him for his signature. Disbursing agents shall refuse to honor orders to pay which have not been submitted for his signature.

The Financial Controller shall have the right to ask the services for any explanation which he may consider desirable in the exercise of his mission. He may check on documents and make spot checks. He shall be informed by the Finance Administration of any situation which concerns the administration of the Budget as well as the Treasury and in particular the monthly allocation of funds.

The Financial Controller shall manage his own services so as to collaborate as closely as possible with the functioning of the services of the Community and so as not to entail a delay in their operations.

ARTICLE 23. The head of each service or section, depending on the requirements, shall see that funds are administered in accordance with the methods foreseen by the Budget and order the most economical conditions with the assistance of an administrative and financial section for which the necessary operating civil or military regulations shall be established in agreement with the Finance Administration.

He shall see to the enforcement of financial directives and specifically the preparation and routing of any provisional statements or reports which may be considered necessary. Whenever it shall appear desirable the head of the

administrative and financial section may be delegated the authority to authorize payments.

TITLE V—TREASURY

ARTICLE 24. The Community shall try to avoid any sizable transfer of cash by carrying out its operations through checking accounts. It shall open accounts in national central banks and shall also make use of the postal check services in existence on the territory of the member States. Under exceptional circumstances, it may enlist the assistance of private banking institutions.

ARTICLE 25. The Community shall inform each State of the contribution for which it is liable. Payment shall be made in national currency. The account of the Community shall be credited on the due date. In the case of delay in payment, the rate of exchange to be applied in converting into national currency the common currencies in which the budget is established shall be the rate in force on the day when the account of the Community is credited and not the due date. In cases where contributions are voluntarily paid before the due date, the rate of exchange to be applied shall be that of the due date, the anticipated payment having only the character of a non-legal payment on account.

ARTICLE 26. Any delay beyond three days in the payment of a contribution shall entail payment of 10 percent interest, counting from the due date. Moreover, the delinquent State shall be required to assume the additional expenditures which its delay in payment has caused the Community, particularly the interest on funds which the Community should have had recourse.

ARTICLE 27. In case of necessity, the Community shall require the States to grant it an advance equal at the most to the amount of the following monthly contribution. The State making the loan shall receive interest which shall not be more than that State pays its own creditors for operations of this nature.

ARTICLE 28. The Community shall avoid all financial operations not justified by absolute necessity. It shall not perform any arbitrage in the placement of its assets. Such placements are made in short-term Treasury bills of the national treasuries. To the extent that the Community may wish to make deposits in private banks, it shall reach an agreement with the competent monetary authorities of the State in question on the maximum amount of these deposits. The Community shall not place money with a non-member State nor engage in placements with member States which necessitate arbitrage of exchange except with the unanimous consent of the Council.

TITLE VI—TRANSFERS AND ARBITRAGE

ARTICLE 29. In executing the common Budget, the Commissariat shall use for payments in the monetary zone of a member State at least 85 percent of the contribution paid by that State. At the request of the State in question or of the Commissariat, this percentage may be reduced. If agreement cannot be reached between the Commissariat and the State in question as to this reduction, the question, at the request of one or the other of the parties, shall be

brought before the Council of Ministers which shall decide by unanimous vote.

ARTICLE 30. The Commissariat, in the execution of the common Budget, shall limit the amount of payments in the monetary zone of a member State to a sum equal at the most to 115 percent of the contribution paid by that State. At the request of the State in question or of the Commissariat, the amount of expenditures in national currency may be raised to more than 115 percent of the contribution of that State. If agreement cannot be reached between the Commissariat and the State in question as to this increase, the question, at the request of one or the other of the parties, shall be brought before the Council which shall decide by unanimous vote.

The Community shall procure the sums in national currency which are in excess of the contribution of the State in question either through arbitrage of the currency of the member State or arbitrage of the currency of non-member States in conformity with Articles 31 and 32 below.

ARTICLE 31. Within the limits of sums, which under the terms of Article 29 above, may be utilized outside of the monetary zone of a member State, the Commissariat may freely engage in arbitrage between the currency of member States and that of non-member States which are linked by a multilateral payments system. Within the limits provided above, and contingent on Article 32 below, the Commissariat may, in agreement with the Governments in question, carry out arbitrage between the currency of member States and the currency of third countries which do not participate in this multilateral payment system. If agreement cannot be reached, the question shall be brought before the Council of Ministers either by the Commissariat or by a member State and the Council shall decide by unanimous vote.

ARTICLE 32. Any arbitrage involving either assignment to the Community by a member State of U. S. dollars or freely-convertible currency against delivery of currency of a member State, or acquisition by the Community of currency of a member State against delivery of U. S. dollars or freely-convertible currency, shall be subject to agreement of the Council of Ministers by unanimous vote.

ARTICLE 33. Transfers among member States necessary to the execution of the payments of the Community shall be considered as current payments.

ARTICLE 34. In the preparation and execution of the Budget, the Commissariat shall limit commitments in currency of a member State or currency of a non-member State to the available funds resulting from the application of the preceding articles.

It shall make allowance for the indirect charges in foreign exchange arising for a member State as a result of the activities of the Community within its territory.

ARTICLE 35. In order to avoid disturbances in the balance of payments of member States, the Commissariat shall make a careful choice of arbitrated currencies in the light of the economic and financial situation of the participating countries. It shall take the necessary steps to spread out the necessary transfers over the year in question.

ARTICLE 36. In cases where the transfers and arbitrages could not continue to be carried out through the European Payments Union the provisions of the present Protocol relative to these transfers and arbitrages shall be reexamined by the Council which shall unanimously decide on the new provisions to be adopted.

TITLE VII—FOREIGN AID

ARTICLE 37. All division of foreign aid by way of exchanging freely convertible currencies against the local currency of the member States which is contained in an aid agreement foreseen in Article 98 of the Treaty shall be subject to a special approval of the Council by a unanimous vote in application of Article 32 above.

ARTICLE 38. Foreign financial aid is considered as a receipt separate from the contributions of the member States and is not subject to the provisions of Articles 29, 30, 34 and 35 above.

TITLE VIII—BOOKKEEPING

ARTICLE 39. The Finance Administration shall, in conformity with the provisions of the financial regulation and in agreement with the control authorities, decide on the accounting regulations which will make it possible to record all of the operations of the Community, to follow the execution of the Budget, and to prepare the rendering and verification of the accounts of administration.

TITLE IX—GENERAL PROVISIONS

ARTICLE 40. The Council by unanimous vote shall approve a Financial regulation which shall embody, complete and define the provisions of the present Protocol. Eventually this regulation will be prepared by the Commissariat.

ARTICLE 41. The provisions of the present Protocol which complete and define the application of the articles of the Treaty can be amended by a unanimous vote of the Council.

CONDITIONS OF REMUNERATION AND PENSION RIGHTS OF THE CIVIL AND MILITARY PERSONNEL EMPLOYED BY THE COMMUNITY

The High Contracting Parties,

Desirous of setting forth the conditions of remuneration and pension rights of the civil and military personnel employed by the Community, have agreed as follows:

ARTICLE I. The military personnel of the European Defense Community, hereafter called the Community, are subject to a single pay scale based on a common statute carrying identical length of service provisions and a uniform hierarchy scale without prejudice to the application of national fiscal, family and social legislation.

ARTICLE 2. The pay allotted to the military personnel of the Community shall not have the exclusive character of remuneration for services rendered. It shall be designed also to assure to the recipients a standard of living compatible with their functions by means of a series of allowances in kind and in cash which shall be adapted to the particular nature of military functions.

ARTICLE 3. The constituent elements of the pay system shall be the following:
a basic salary with an increase for certain ranks; this basic salary is uniform for a given rank and a given length of service whatever the nationality of origin;

if necessary, a variable residential or quarters allowance designed to adapt the basic salary to the economic conditions prevailing in each of the member States where the military personnel of the Community shall exercise their functions;

a separation indemnity for military personnel exercising their functions in a State other than their State of origin.

ARTICLE 4. In addition, the military personnel of the Community shall receive personal equipment according to special dispositions for each rank; food shall be provided for all draftees and in certain circumstances for other personnel. Medical care and pharmaceutical assistance, indemnities for special obligations, representation allowances, and certain transportation facilities shall be provided as well.

ARTICLE 5. The Community shall endeavor to provide lodging for its military personnel in return for a deduction from the basic salary.

The military personnel on official duty outside their State of origin who do not receive lodging from the Community shall receive a complimentary separation indemnity.

In the regions where rents are exceptionally high, military personnel shall receive a forfeitary allocation designed to cover this supplementary expenditure.

ARTICLE 6. The fundamental principles defined above as well as the procedures for their application shall be incorporated into a regulation which shall be prepared by the Commissariat and approved by a unanimous vote of the Council in the month following the entry into force of the treaty.

This regulation may be modified at a later date by the same procedure.

ARTICLE 7. If the application of the principles defined above shall cause differences in the pecuniary situation of the military personnel of certain contingents arising from their services outside their State of origin, the appropriate national authority of which such personnel are the citizens can take, during a transitional period, all dispositions necessary to remedy this possible prejudice.

If the Council by unanimous vote shall decide that this additional remuneration compromises contributions to the common budget, the State concerned shall so handle such additional remuneration as to ensure that the interests of the Community are not prejudiced.

ARTICLE 8. The Commissariat will prepare the statute and the provisions concerning the remuneration of the civil personnel of the Community which shall

be approved by a unanimous vote of the Council. The labor legislation in force either in the State of residence or in the State of origin of the interested persons is not necessarily applicable.

ARTICLE 9. A regulation of the European Defense Community concerning pensions and seeking the application of the principle of uniformity of rights shall be established by the Commissariat with the unanimous concurrence of the Council.

Until the entry into effect of such regulation, the personnel of the Community shall continue to be governed by the legislation of their states of origin. Service with the Community shall be computed together with service rendered to such States.

The case of States which do not have legislation on pensions shall be settled by the Council in agreement with the government concerned.

PROTOCOL RELATIVE TO THE GRAND DUCHY OF LUXEMBOURG

The High Contracting Parties,

Taking into account the fact that it is not possible for the Grand Duchy of Luxembourg, because of its demographic situation, to place a basic unit of homogeneous nationality at the disposal of the Community,

Agree that the volume of Luxembourg military forces, their organization, and the arrangements for their eventual integration and for their use will be established by an agreement to be concluded between the Community and the Grand Duchy, with the agreement of the competent Supreme Commander responsible to the North Atlantic Treaty Organization.

This agreement shall also fix the length of active service in the Luxembourg forces, taking account of the conditions of their use and of all other factors specially relating to the demographic and industrial structure of the Grand Duchy.

To the extent necessary to establish, and give effect to, the provisions of this agreement, the latter shall take effect notwithstanding contrary provisions of the Treaty.

PROTOCOL CONCERNING THE INTERIM COMMITTEE

The delegations which participated in drawing up the Treaty shall continue to meet as an Interim Committee during the period between the date of signature of the Treaty and the date when the institutions of the European Defense Community begin to function.

Within the Interim Committee they shall consider problems which concern the Community and the measures which the signatory Governments might be required to take before said institutions begin to function.

The Interim Committee shall, on the basis of the Treaty and the annexed Protocols and Conventions, draft the texts which are to be put into force at the same time as the Treaty in order to make it possible for the institutions of the Community to begin to function as soon as the Treaty is ratified.

In addition, it shall collect all of the information needed to facilitate performance by the Commissariat of the most urgent tasks for which it is responsible.

The Interim Committee shall be able to appoint *ad hoc* working groups and on a temporary basis to call on the experts necessary to carry out their mandate.

The work of the Interim Committee may consist only of preparatory studies and plans which shall not commit the Governments and shall not entail any measures of execution.

PROTOCOL CONCERNING RELATIONS BETWEEN THE EUROPEAN DEFENSE COMMUNITY AND THE NORTH ATLANTIC TREATY ORGANIZATION

The member States of the European Defense Community,

Desirous that relations between the North Atlantic Treaty Organization and the European Defense Community maintain the greatest flexibility and avoid to the greatest extent possible the overlapping of responsibilities and functions, Agree as follows:

1. Mutual consultations shall take place between the North Atlantic Council and the Council of the European Defense Community on questions concerning the common objectives of the two organizations, and the two Councils shall hold joint meetings whenever one or the other deems it desirable.

Whenever one of the parties to the North Atlantic Treaty or one of the parties to the Treaty establishing the European Defense Community shall consider that the territorial integrity, the political independence or the security of one of them is threatened, or that the existence or integrity of the North Atlantic Treaty Organization or of the European Defense Community is threatened, a joint meeting shall be held upon the request of such party in order to study measures to be taken to deal with the situation.

2. With a view to ensuring close coordination on the technical level, each Organization shall communicate to the other appropriate information, and a permanent contact shall be established between the staffs of the European Defense Community Commissariat and of the civilian agencies of the North Atlantic Treaty Organization.

3. As soon as the European Defense Forces shall have been placed under the command of a Commander responsible to the North Atlantic Treaty Organization, members of the European Defense Forces shall become members of such Commander's Headquarters and of appropriate subordinate Headquarters. Commanders responsible to the North Atlantic Treaty Organization shall ensure all necessary liaison between the European Defense Forces and the other military agencies of the North Atlantic Treaty Organization.

4. The Council of the European Defense Community and the North Atlantic Council may by common agreement adjust the foregoing arrangements governing relationships.

5. The present protocol shall enter into effect at the same time as the Treaty establishing the European Defense Community, of which it shall form an integral part.

ADDITIONAL PROTOCOL ANNEXED TO THE TREATY ESTABLISHING THE EUROPEAN DEFENSE COMMUNITY, CONCERNING GUARANTIES OF ASSISTANCE FROM THE MEMBER STATES OF THE COMMUNITY TO THE STATES PARTIES TO THE NORTH ATLANTIC TREATY

The member States of the European Defense Community,

Convinced that the creation of the European Defense Community, established by the Treaty signed in Paris on May 27, 1952, will strengthen the North Atlantic Community and the integrated defense of the North Atlantic area, and will promote a closer association of the countries of Western Europe,

Agree as follows:

ARTICLE I. Any armed attack

(i) on the territory of one or more of the Parties to the North Atlantic Treaty in the area defined in Article 6 (i) of the said Treaty, or (ii) on the land, naval or air forces of any of the Parties to the North Atlantic Treaty when in the area described in article 6 (ii) of that Treaty, shall be considered an armed attack against all the member States of the European Defense Community and against the European Defense Forces.

In the event of such an armed attack, the member States of the European Defense Community, in respect of themselves and of the European Defense Forces, shall have the same obligations towards the Parties to the North Atlantic Treaty as those Parties undertake towards the members of the European Defense Community and the European Defense Forces, in virtue of the Protocol between the parties to the North Atlantic Treaty referred to in Article 2 below.

The expression, "States Parties to the North Atlantic Treaty" shall mean parties to the said Treaty at the time of entry into effect of the present Protocol.

ARTICLE II. The present Protocol shall enter into effect at the same time as the Protocol between the States parties to the North Atlantic Treaty, which extends reciprocal guarantees to the member States of the European Defense Community and to the European Defense Forces.

ARTICLE III. The present Protocol shall remain in effect for so long as the Treaty signed at Paris on May 27, 1952, establishing the European Defense Community, and the North Atlantic Treaty, supplemented by the Protocol referred to in Article II above, remain in effect.

3. Convention Relative to the Status of European Defense Forces and the Tax and Commercial Régime of the European Defense Community, Paris, 27 May 1952

NOT IN FORCE ON 1 APRIL 1954

This Convention requires separate ratification (Article 49), and is then to come into force at the same time as the Treaty constituting the European Defense Community. It is to have the same duration.

The text is from United States Senate Executive Q and R, 82d Congress, 2d session (1952), p. 240, corrected from the official French text in *Traktatenblad van het Koninkrijk der Nederlanden*, Jaargang 1952, No. 129.

TITLE I—PUBLIC SECURITY

ARTICLE 1. The members of the European Defense Forces shall be required to respect the laws in force and to refrain from all political activity within the territory of the receiving State.

This requirement shall not interfere with the exercise of political rights, in accordance with the provisions of the internal laws of the State of origin, and under conditions compatible with the status of member of the European Forces.

The Authorities of the European Defense Forces shall ensure that these provisions are complied with and shall take the measures necessary for this purpose. At the request of the competent authorities of the receiving State, they may, in particular, order the immediate transfer of a member of the European Defense Forces who has not respected the requirement set forth in the first paragraph of the present Article, without prejudice to the possible application of disciplinary measures in case the conduct of the party concerned was or would be such as to disturb law and order in the receiving State.

ARTICLE 2. 1. Without prejudice to the provisions of paragraph 2 of the present Article, the members of the European Defense Forces shall be exempt from passport and visa formalities as well as regulations relative to the registration and the control of foreigners.

2. Only the following documents shall be required of members of the European Defense Forces. They shall be presented upon demand:

a) Personal identity card of a standard type but of a different color for military and civil personnel, issued by the qualified authorities of the European Defense Forces, bearing a photograph and the full name, the date and the place of birth, the nationality, the arm or service, the rank or assignment, and, if appropriate, the serial number of the holder.

b) Individual or collective permit, issued by the qualified authorities of the European Defense Forces and indicating the name of the person or unit in question and the purpose of the mission or travel.

The headings on the documents mentioned in paragraphs a) and b) above shall be printed in German, French, Italian, and Dutch.

3. The qualified authorities of the European Defense Forces shall, insofar as possible and using standard procedures, inform the authorities of the interested receiving State of the full names, the date and place of birth, and the nationality of the members of the civil element who would have occasion to enter the territory of said receiving State.

ARTICLE 3. Dependents residing with members of the European Defense Forces and authorized by the qualified authorities of these Forces to accompany the head of the family must be in possession of a passport issued by the State of origin. Indication of their status as well as the authorization issued to them shall be entered in the passport by the above-mentioned. They shall be exempt from visa formalities and every facility shall be granted them by the receiving State as concerns their obligations under regulations governing residence within the territory of this State.

With these exceptions, dependents shall be subject to the laws of the receiving State as concerns foreigners. However, if a member State or the Commissariat deems that the authorities of the receiving State are making abusive use of the exercise of the laws of this State or are applying such laws in a manner contrary to the essential interests of the Community, they may bring the matter before the Council; the latter may request the receiving State to review the measures or decisions taken, which their State shall then do in taking the interests of the Community fully into account.

ARTICLE 4. 1. Without prejudice to the possible application of the laws of the receiving State as concerns foreigners, the authorities of the European Defense Forces shall be required to ensure the repatriation of members of the European Defense Forces from the territory of a receiving State as soon as they cease to be in the service of these Forces.

2. The authorities of the European Defense Forces shall immediately inform the authorities of the receiving State of any illegal absence exceeding six days.

3. The periods during which a member of the European Defense Forces is present within the territory of one of the member States solely by reason of his status as member of these Forces shall not be considered as periods of residence toward acquisition of the right to permanent residence or domicile or as entailing a change of domicile.

The same shall be true for the dependents referred to in Article 3 above.

ARTICLE 5. Regularly constituted military units or formations shall have the right of police in all camps, establishments or other installations occupied by them by virtue of an agreement with the receiving State for ensuring the maintenance of order and security in these installations. For this purpose, the police of the receiving State may operate within the installations of the Community with the agreement of the qualified authorities of the Community and in co-operation with the elements of the Community.

The use of the abovementioned military police outside these installations shall be subordinated to an agreement with the authorities of the receiving State and shall take place in liaison with these authorities.

ARTICLE 6. 1. The member States shall consider as valid, without requiring examination, fee or tax, a driving license issued by one among them to a member of the European Defense Forces, or a military driving license issued by the qualified authorities of the European Defense Forces.

2. In the case of internal navigation, certificates testifying to boat-handling ability shall be subject to the general regulations in force in the receiving State. The issuance of a navigation certificate may be the subject of a special convention.

ARTICLE 7. 1. The regulations on road traffic in force in the receiving State shall apply to the European Defense Forces, except where such national legislation is modified upon the advice of the Commissariat in order to take into account the characteristics of certain vehicles or certain military requirements.

2. The competent authorities of the Community shall provide for the registration of all vehicles belonging to the Community, and for the affixing on these vehicles of a registration plate of a uniform type bearing a number and a distinc-

tive marking. The presence of the plate on the vehicle and the possession by the driver of the corresponding registration certificate shall permit travel within the territory of each of the member States.

The competent authorities of the Community shall ensure that the vehicles registered and placed in circulation comply with the regulations in force in the various member States in which they shall have occasion to be used. They shall ensure that the vehicles placed in circulation are inspected and are in proper working order.

ARTICLE 8. The competent authorities of the Community shall provide for the registry of the aircraft belonging to the Community as well as for the affixing on such aircraft of a distinctive emblem of a uniform type and individualized markings.

These authorities shall ensure that the aircraft registered and placed in service comply with the regulations in force in the member States. Upon the advice of the Commissariat, the member States shall take the necessary measures for ensuring the uniformity of these regulations, particularly as concerns control over the state of navigability and the fitness for flight of aircraft.

The flight certificates of military flying personnel on service at airfields belonging to the European Defense Forces shall be issued or validated, depending upon the case, by the competent authorities of the Community.

The regulations on aerial navigation in force in the receiving State shall apply to the European Defense Forces, except where modifications shall be made in each national legislation because of military necessities upon the advice of the Commissariat and taking into account international conventions.

ARTICLE 9. The authorities of the European Defense Forces shall draw up regulations on the wearing of the uniform, and these regulations shall be reported to the competent authorities of the member States. Regularly constituted military units and formations shall appear in uniform when they wish to cross frontiers.

ARTICLE 10. The authorities of the European Defense Forces shall draw up regulations on the wearing and possession of arms by the members of these Forces, and these regulations shall be reported to the competent authorities of the member States.

ARTICLE 11. The competent authorities of the European Defense Forces shall give friendly consideration to the requests which the authorities of the receiving State may make as concerns the application of the provisions of Articles 9 and 10 above.

TITLE II—PUBLIC SERVICES AND MILITARY INSTALLATIONS

ARTICLE 12. The European Defense Forces may benefit from the public services within the territory of the member States, particularly as concerns the following:

- a) Postal and telecommunications services;
- b) Land, sea and air transport;

c) Electricity, gas, and water supply;

d) Sanitary services.

The public services referred to in *b)* above shall include facilities pertaining to the use of public services and, as the case may be, the use of their installations.

The competent authorities of the Community shall notify the competent authorities of the receiving State of their requirements as regards such services.

ARTICLE 13. Public services shall be furnished under the conditions fixed by special agreements between the Community and the authorities or organizations designated by the receiving State.

The public services furnished by the European Defense Forces shall be paid for by the Community on the basis of the regulations and rates in effect in the receiving State. In the absence of a regulation or rate corresponding to the service furnished, such service shall be paid for under the terms set forth in a special agreement between the competent authorities of the receiving State and the Community. Special agreements between the competent authorities of the receiving State and the Community may eventually stipulate conditions and rates different from those resulting from the provisions in force in the receiving State.

ARTICLE 14. On an exceptional basis, certain installations of public services may be placed at the exclusive disposal of the European Defense Forces by special agreement between the competent authorities of the receiving State and the Community.

ARTICLE 15. Cooperation between the services contributing to the security of aerial navigation and the meteorological service of the receiving State, on the one hand, and the corresponding services of the Community, on the other, shall be the subject of special agreements between the competent authorities of the receiving State and the Community.

ARTICLE 16. For railway transportation of members of the European Defense Forces, the competent authorities of the receiving State shall grant, under the conditions to be fixed by special agreements and subject to reimbursement by the Community, the reductions or exemptions in fares which would be requested by the Community. Under the conditions set forth in the special agreements, account shall be taken for such reimbursement of the increase in traffic due to the reductions or exemptions in fares.

For highway transportation of the persons referred to in the preceding paragraph and without prejudice to the rate terms which may be freely agreed to by the transporters, reductions in fares may be granted upon the request of the Community and under the technical and financial conditions to be fixed by special agreement concluded with the competent authorities of the receiving State to the extent that these authorities would be legally able to obtain such conditions from certain transporters. The financial agreements shall provide for reimbursement by the Community, under conditions similar to those indicated in the preceding paragraph, unless the competent authorities of the receiving State agree to conditions more favorable to the Community.

ARTICLE 17. When the means placed at the disposal of the European Defense Forces as concerns public services are judged insufficient to meet the requirements

of these Forces, the competent authorities of the receiving State and of the Community shall seek the bases of an agreement for satisfying these requirements, taking into account the provisions of Articles 3 and 102 of the Treaty. This agreement shall cover the choice of means (either, and preferably, adjustment of the use of public services or the use of their installations, or modification, reinforcement or expansion of existing installations, or, if necessary, creation of special installations) as well as the location and technical characteristics of the new installations.

ARTICLE 18. 1. In order to facilitate the conclusion of the agreement referred to in Article 17 above, the competent authorities of the receiving State or those of the Community may call a meeting of a Mixed Commission composed of qualified experts.

If an agreement is not reached within a reasonable period of time, the Commission shall formulate a recommendation which the receiving State may refer to the Council within a period of one month from such notification; however, such recommendation may not serve to hamper the normal operation of the public services of the receiving State. The receiving State must comply with the recommendation of the Commission if this recommendation is confirmed by a two-thirds majority vote of the Council.

2. The privilege which the member States enjoy by virtue of Article 56 of the Treaty is not affected by the above provisions.

ARTICLE 19. The modification, reinforcement or expansion of existing installations, as well as the creation of special installations, shall be carried out under the conditions set forth below.

The expenditures pertaining to such operations are, in principle, borne by the Community. However, in case these operations shall also serve to satisfy the requirements of the receiving State itself, these expenditures shall be shared by the Community and the receiving State according to proportions to be fixed by special agreement. This agreement may provide for advances of funds from the Community to the receiving State.

The installations, as well as the land on which they are located, are the property of the receiving State.

Work on such installations shall be carried out by the receiving State.

ARTICLE 20. The receiving State shall ensure the operation and the maintenance of the existing installations which have been modified, reinforced or expanded, as well as the special installations created in accordance with the provisions of Articles 17, 18 and 19 above.

The operating and maintenance expenditures shall be borne by the receiving State, without prejudice to the application of Article 14 above.

The services furnished the European Defense Forces by means of these installations shall be paid for under the conditions stipulated in Article 13 above.

ARTICLE 21. 1. The competent authorities of the Community shall notify the competent authorities of the receiving State of their requirements as concerns

installations of a military nature, which are to be used exclusively by the European Defense Forces.

The competent authorities of the receiving State and of the Community shall seek the bases of an agreement for satisfying these requirements, taking into account the provisions of Articles 3 and 102 of the Treaty. This agreement shall cover the choice of means (modification of existing installations or, if necessary, creation of new installations). In the case of new installations, the agreement shall also cover their location and their technical characteristics; in this respect, the agreement may contain specific exceptions to national legislation and regulations, justified by military necessities though in keeping with considerations of public security.

In order to facilitate the conclusion of the above-mentioned agreement, the competent authorities of the receiving State or those of the Community may call a meeting of a Mixed Commission composed of qualified experts.

If an agreement is not reached within a reasonable period of time, the Commission shall take a decision which the receiving State may refer to the Council within a period of one month from such notification. However, this decision shall not serve to compel the receiving State to make exceptions to its legislation and to its national regulations or to its international commitments; this decision shall also be in keeping with considerations of public security.

The receiving State shall comply with the decision of the Commission if this decision is confirmed by a two-thirds majority vote of the Council.

2. The privilege which the member States enjoy by virtue of Article 56 of the Treaty is not affected by the above provisions.

ARTICLE 22. Installations such as those referred to in Article 21 above, which are the property of the receiving State, shall be placed at the disposal of the Community free of charge in the maintenance condition in which they are found. The Community shall pay the taxes and fees pertaining to such installations to the extent that it is not exempt from such taxes and fees under the provisions in effect. The maintenance and possibly the repairing of such installations shall be ensured by the Community under the conditions set forth in Article 25 below.

If the Community wishes to make any transformations in these installations, it shall obtain the authorization of the owner State. Work on such installations shall be carried out under the conditions stipulated in Article 25 below.

ARTICLE 23. If the receiving State places at the disposal of the Community installations such as those referred to in Article 21 above, which are not its property, the expenditures which it must bear as a consequence of this fact are fully reimbursed to it by the Community.

ARTICLE 24. If the creation of new installations, such as those referred to in Article 21 above, necessitates the purchase of real estate, such property shall be purchased by the Community at its expense. However, the receiving State may decide to purchase such property itself at its expense; in this case, such property is then placed at the disposal of the Community under the conditions specified in Article 22 above.

At the request of the Community, the receiving State shall employ the most effective procedures at its disposal for the purchase of such property.

ARTICLE 25. In the construction of new installations, such as those referred to in Article 21 above, the work shall be carried out either by the Community under the conditions provided for in Article 104 of the Treaty or, after agreement, by the receiving State. In both cases, the expenditure is borne by the Community.

The maintenance of the installations shall be assured under the same conditions.

ARTICLE 26. When the Community no longer has need of an installation created by it on land belonging to it or belonging to the receiving State, it shall determine the condition in which such installation shall be left in making therein only those transformations required by military necessities.

In case this installation is constructed on land belonging to the receiving State, the increase or decrease in the value of the installation shall be estimated and the corresponding financial settlement made.

In case the Community is owner of the land, the receiving State may exert a right of eminent domain on the property to be disposed of.

ARTICLE 27. 1. The civil labor necessary for carrying out the tasks of the European Defense Community within the frontiers of each receiving State shall, insofar as possible, be placed at the disposal of the Community through the channel of the competent authorities charged with the employment of workers of this State.

2. The European Defense Community shall have the status of employer of this civil labor. In particular, it may conclude collective bargaining contracts. Hiring and working conditions of civil labor shall be governed by the laws of the receiving State.

In no case shall the labor employed by the Community have the status of member of the military or civil elements.

ARTICLE 28. The agreements concluded between the competent authorities of the receiving State and of the Community as concerns the satisfaction of the requirements of the Forces shall take into account the rights applicable to and the obligations incumbent upon other Forces stationed on the territory of such State, in order to assure the requirements of the European Defense Forces under conditions which will not jeopardize the interests of the Community.

TITLE II—TAX AND COMMERCIAL REGIME OF THE COMMUNITY

Chapter I—Tax and Customs Regime Taxes on Sales and Consumption

ARTICLE 29. The goods acquired on the territory of the member States by the European Defense Community, hereafter referred to as the Community, as well as the supplies and other services furnished to the Community by enterprises situated on the territory of a member State shall be subject to the duties and taxes applicable in the country in question. These operations shall be considered neither as exports nor as imports from the tax or commercial point of view.

ARTICLE 30. The transportation of goods acquired by the Community in the conditions foreseen by Article 29 of the present Convention from the territory of one member State to the territory of another member State shall not be considered by the State of origin as an export, nor by the State of destination as an import. Such transportation shall not give rise to the payment or refund of duties or taxes in force in the countries in question at the time of exportation or importation. Such transportation shall not be subjected to restrictions arising from laws concerning the commercial relations between the member States.

ARTICLE 31. The goods acquired by the Community in a non-member State shall be subject, at the time of their entry into the territory of the Community, to the duties and taxes applicable on the territory of the member State on which final customs clearance will take place. Their subsequent circulation on the territory of the member States shall be governed by Article 30 above.

Notwithstanding the provisions of the preceding paragraph, there shall be established a list of specifically military matériel for which there shall be provided, at the time of its final customs clearance, exemptions from customs duties on purchases in a non-member State, but not from indirect taxes or compensatory duties for indirect taxes.

ARTICLE 32. Upon the recommendation of the Commissariat, made by the latter after consultation with the governments of the States concerned, the provisions of Articles 29 and 31 of this Convention may be revised by unanimous decision of the Council with a view to attaining uniformization and alleviation of taxes and customs duties payable on purchases made by the Community.

ARTICLE 33. The goods furnished free of charge to the Community by means of foreign aid shall not be subjected to any duties or taxes either at the time of entry or when circulating on the territory of the member States.

The Commissariat is authorized to insert in the foreign aid agreements described in Article 99 of the Treaty establishing the European Defense Community tax exemption clauses for purchases financed by foreign aid and made in the interests of defense on the territory of the member States, which are analogous to those contained or to be contained in bilateral agreements between member States and the State which furnishes foreign aid.

At the request of a member State the Council of Ministers of the Community shall examine the possibility of an appropriate Compensation in the case where the application of the preceding provisions results in an unequal burden for any member State.

ARTICLE 34. If the application of the provisions of Articles 29 to 31 above to certain products taxed at a particularly high rate gives rise to substantial difficulties in the economy or finances of a member State, the Council, at the request of that State, shall take the necessary remedial measures. Aside from other appropriate measures, the Council may suspend application of the tax regime defined above.

ARTICLE 35. The preceding provisions do not imply the suppression of frontier controls; however the member States shall simplify the necessary formalities to the extent possible.

ARTICLE 36. Goods brought onto the territory of a member State, which have profited from the provisions of Articles 29 to 31 above, may be transferred by the Community, with or without payment, only with the authorization of the State concerned and in the circumstances to be determined by agreement between the Community and such State.

ARTICLE 37. At the request of a member State the regime provided for in the above articles may, by unanimous decision of the Council, be revised or completed by a system of compensating for tax receipts, as the economic and financial relations of the member States evolve as a result of the existence of the Community. Such a revision shall in any case be studied when the burden-sharing method provided for in Article 94 of the Treaty establishing the Community comes into effect.

ARTICLE 38. The personnel of the Community shall be subject to the consumption and sales taxes applicable in the State where they are stationed. They shall also be subject to customs duties on imports or exports except as otherwise provided for in the case of official travel.

Chapter II—Other Taxes

ARTICLE 39. The Community shall be exempted from payment of all taxes on income and capital except for:

- a) taxes on the assets of the Community which are not directly utilized for its normal activity;
- b) taxes on profit or income on the assets covered in subparagraph (a) above as well as on agriculture, industrial or business income.
- c) Taxes representing payment for public services.

ARTICLE 40. In principle, the Community shall not benefit from any exemption from any other taxes, except for exemptions provided for by agreement between the Community and the member States.

ARTICLE 41. 1. The fact that persons paid by the Community exercise their official functions in a member State other than their country of residence at the time they enter the service of the Community shall not result in a change in their domicil for purposes of income, capital, or gift and inheritance taxes. These provisions shall also be applicable to wives or husbands and children of minor age of the persons concerned.

In the country of stationing such persons shall be exempted only from taxes on income received from the Community.

Upon recommendation of the Commissariat, the Council may, by unanimous vote, determine the categories of officials of high rank of the institutions of the Community who shall, in limited numbers, be exempted in their state of origin from all taxes on income and emoluments received from the Community; these exemptions may entail an imposition on such officials of taxes for the benefit of the Community in a manner also to be decided upon by unanimous vote of the Council.

2. In the application of inheritance duties, property belonging to persons described in paragraph 1 of the present article and situated on the territory of the country of stationing shall be considered as being in the country of domicile.

ARTICLE 42. At the request of a member State and according to the procedures which that State establishes, the Community shall retain for the profit of such State the taxes due on the salaries and other payments received from the Community by the individuals concerned.

Chapter III—General Provisions

ARTICLE 43. The tax regime for canteens and military restaurants shall be the subject of special agreements between the Community and the State where such establishments are located.

ARTICLE 44. The Community shall furnish all useful assistance in the tax and customs fields to the member States which shall so request.

ARTICLE 45. The details of application of the general principles enunciated in this Convention shall be established by a special tax agreement which shall recapitulate, complete and elaborate upon the provisions of this Convention. This agreement shall be drafted by the Commissariat and approved by the Council by unanimous vote. The details of application of this Convention may also, if necessary, be established by agreements between the Community and the member States.

TITLE IV—FINAL DISPOSITIONS

ARTICLE 46. The definitions contained under Title IV of the Jurisdictional Protocol annexed to the Treaty instituting the European Defense Community shall apply to the present Convention.

ARTICLE 47. The regulations of the Treaty defining the operation of the institutions of the Community shall apply as concerns their intervention such as it is provided for under the present Convention.

In particular, recourse to the Court is open within the framework of the present Convention in the cases and in the conditions where such recourse would be open under the terms of the Treaty.

ARTICLE 48. Any State which shall be party to the Treaty under the conditions provided for in Article 129 of said Treaty, shall be party to the present Convention.

ARTICLE 49. The present Convention shall be ratified, the instruments of ratification shall be deposited with the Government of the French Republic which shall notify such deposit to the Governments of the other member States.

ARTICLE 50. The present Convention will enter into effect at the same time as the Treaty establishing the European Defense Community.

In witness whereof the undersigned Plenipotentiaries have affixed their signatures at the end of the present Treaty and have thereto affixed their seals.

DONE at Paris the twenty-seventh day of May one thousand nine hundred fifty-two.

4. Position of the European Defense Community With Respect to the United Kingdom and the United States

(A) TREATY BETWEEN THE UNITED KINGDOM AND THE MEMBER STATES OF THE EUROPEAN DEFENSE COMMUNITY, PARIS, 27 MAY 1952

NOT IN FORCE ON 1 APRIL 1954

The present Treaty, to enter into force, requires in addition to ratification by all the signatories a notification that the Treaty establishing the European Defense Community has entered into force. An instrument of ratification was deposited by the Netherlands on 9 March 1954. The text is from British Parliamentary Papers, Miscellaneous No. 9 (1952), Cmd. 8562, Annex A.

The President of the Federal Republic of Germany, His Majesty the King of the Belgians, the President of the French Republic, the President of the Italian Republic, Her Royal Highness the Grand Duchess of Luxembourg, Her Majesty the Queen of the Netherlands and Her Majesty the Queen of Great Britain, Ireland and the British Dominions beyond the Seas,

Desiring, in the interests of the defence of Western Europe, to extend, as between the United Kingdom and the States members of the European Defence Community established by the Treaty signed at Paris, on 27th May, 1952, the guarantees of assistance against aggression given in Article IV of the Treaty signed at Brussels on 17th March, 1948.

Have appointed as their Plenipotentiaries for this purpose,

[Plenipotentiaries omitted]

Who, having exhibited their full powers, found in good and due form, have agreed as follows:—

ARTICLE I. If at any time, while the United Kingdom is party to the North Atlantic Treaty, any other party to the present Treaty which is at that time a member of the European Defence Community, or the European Defence Forces, should be the object of an armed attack in Europe, the United Kingdom will, in accordance with Article 51 of the United Nations Charter, afford the Party or the Forces so attacked all the military and other aid and assistance in its power.

ARTICLE II. If at any time while Article I remains in force the United Kingdom or its armed forces should be the object of an armed attack in Europe, the other Parties to the present Treaty which are at that time members of the European Defence Community, and the European Defence Forces, will afford the United Kingdom and its forces all the military and other aid and assistance in their power.

ARTICLE III. The present Treaty shall be ratified and its provisions carried out by the signatories in accordance with their respective constitutional processes. The instruments of ratification shall be deposited with the Government of the United Kingdom, which shall notify the Governments of the other signatories

of each deposit. The Treaty shall enter into force when all the signatories have deposited their instruments of ratification and the Council of the European Defence Community has notified the Government of the United Kingdom that the Treaty establishing the European Defence Community has entered into force.

ARTICLE IV. The present Treaty, of which the English and French texts are equally authentic, shall be deposited in the archives of the Government of the United Kingdom which shall transmit a certified copy thereof to the Government of each of the other signatories.

In witness whereof the undersigned Plenipotentiaries have signed the present Treaty and have affixed thereto their seals.

DONE at Paris, on 27th May, 1952.

(b) AGREEMENT REGARDING COOPERATION BETWEEN THE UNITED KINGDOM AND THE EUROPEAN DEFENSE COMMUNITY; TEXT APPROVED AT PARIS, 13 APRIL 1954

NOT YET SIGNED. NOT IN FORCE.

On 25 March it was announced that the United Kingdom had communicated to the signatories of the European Defense Community Treaty the text of an Agreement providing for close military and political support by the United Kingdom, including an intimate coordination between British forces on the Continent and those of the European Defense Community. On 13 April 1954 the delegates to the Interim Committee of the Community indicated by signature their approval of this agreement. The text was published by the Government of the United Kingdom in a White Paper of 14 April 1954, together with the texts of a (British) Statement of Common Policy on Military Association between the Forces of the United Kingdom and the European Defense Community, and of a declaration of Her Majesty's Government, laying down the broad outlines of British support. These texts are reproduced immediately following that of the Agreement as they appeared in the New York Times of 15 April 1954, page 4.

The President of the Federal Republic of Germany, His Majesty the King of the Belgians, the President of the French Republic, the President of the Italian Republic, Her Royal Highness, the Grand Duchess of Luxembourg, Her Majesty the Queen of the Netherlands and Her Majesty the Queen of the United Kingdom of Great Britain and Northern Ireland and of her other realms and territories, head of the Commonwealth,

Believing that the treaty signed at Paris on May 27, 1952, establishing the European Defense Community is an essential factor in strengthening the defense of the free world through the North Atlantic Treaty Organization;

Considering the community of interests between the United Kingdom of Great Britain and Northern Ireland and the other countries of Western Europe, the part played by the United Kingdom in the defense of Western Europe, notably through the presence of armed forces of the United Kingdom on the mainland of Europe, and the reciprocal obligations undertaken in the treaty between the United Kingdom and the member state of the European Defense Community signed in Paris on the 27th day of May 1952;

Recognizing that the closest links between the United Kingdom and the European Defense Community are therefore required;

Have appointed as their plenipotentiaries for the purpose of concluding an agreement to this end,

[List of plenipotentiaries omitted]

Who, having exhibited their full powers, found in good and due form, have agreed as follows:

ARTICLE 1. So long as the United Kingdom remains bound by its undertakings given in pursuance of the North Atlantic Treaty in respect to the establishment and maintenance of armed forces placed at the disposal of the Supreme Allied Commander, Europe, close cooperation shall be maintained between the United Kingdom and the European Defense Community in the manner laid down in Articles 2 and 3 of the present agreement.

ARTICLE 2. A. The United Kingdom and the European Defense Community shall take appropriate measures to ensure effective and continuous cooperation between their respective armed forces placed under the command of the Supreme Allied Commander, Europe, and in particular to promote a common military outlook in technical fields such as training, tactical doctrine, staff methods, logistics and standardization of equipment.

B. These measures will be taken in accordance with policies already agreed between the authorities concerned and shall be reviewed and extended as necessary by the competent authorities of the United Kingdom and the European Defense Community.

ARTICLE 3. The United Kingdom and the European Defense Community shall establish a procedure for consultation on questions of mutual concern, including the level of the armed forces of the United Kingdom and of the European Defense Community placed under the command of the Supreme Allied Commander, Europe, on the mainland of Europe, and any substantial modification in the level or composition of those forces.

To this end:

A. The Government of the United Kingdom shall appoint representatives of ministerial rank (who may, when appropriated, be represented by a deputy) to attend meetings of the Council of Ministers of the European Defense Community whenever general problems of cooperation between the United Kingdom and the European Defense Community and questions of mutual concern are under discussion by the Council.

B. The Government of the United Kingdom shall appoint a representative to the Board of Commissioners of the European Defense Community to establish close and continuous liaison with the board; this representative and the members of his mission may participate in any joint machinery which may be set up to handle the practical problems of cooperation between the armed forces of the United Kingdom and the European Defense Community.

ARTICLE 4. The present agreement shall be ratified. The instruments of ratification shall be deposited with the Government of the United Kingdom, which shall notify the governments of the other signatories of each deposit. The agreement shall enter into force when all the signatories have deposited their instruments of ratification and the council of the European Defense Community has notified the Government of the United Kingdom that the treaty establishing the European Defense Community has entered into force.

ARTICLE 5. The present agreement, of which the English and French texts are equally authentic, shall be deposited in the archives of the Government of the United Kingdom which shall transmit a certified copy thereof to the government of each of the signatories.

DRAFT STATEMENT OF COMMON POLICY ON THE MILITARY ASSOCIATION BETWEEN THE FORCES OF THE UNITED KINGDOM AND THE EUROPEAN DEFENSE COMMUNITY

PART I

COMMON AIMS

[1] In order to bring about the effective and continuous cooperations between their respective armed forces placed under the command of the Supreme Allied Commander, Europe, provided for in Article 2 (a) of the agreement regarding cooperation between the United Kingdom and the European Defense Community, the authorities concerned of the parties to that agreement have agreed that it is necessary to reconcile, on a basis of reciprocity, differing techniques in as many fields as possible, so leading to a common military outlook. They recognized that this reconciliation will be attained by progress measures of adjustment and in the light of experience, and that the first step will be the exchange of necessary information in the various fields. The ultimate aim is to enable the armed forces of the United Kingdom and the European Defense Community to operate together in the circumstances described in Article 68 (paragraph 3), 69 (paragraph 3), and 70 (paragraph 3) of the treaty establishing the European Defense Community, without reducing their effectiveness.

[2] The following are among the particular fields, applicable to the three services, in which a common military outlook shall be sought:

(a) *Tactical Doctrine and Staff Methods*.—In order to insure the best co-operation between units of the two armed forces, tactical doctrines and staff methods shall be reconciled as far as possible. To this end, a continuous exchange of documentary information shall take place between the military authorities of the United Kingdom and the European Defense Community. After the establishment of the European Defense Community a joint study group shall be set up to examine the means of evolving common doctrines. Observers at tactical demonstrations and exercises shall be exchanged.

(*b*) *Logistics*.—The common aim is to remove such differences in logistics between the armed forces of the United Kingdom and of the European Defense Community placed under the command of the Supreme Allied Commander, Europe, as might prejudice active operations in the field. This calls for the harmonization of the logistic systems and the standardization of their equipment.

Harmonization of Logistics Systems: (i) As a first step the elimination of differences in logistic organization shall be sought in certain of the less controversial fields through the agency of joint study groups.

Standardization of Equipment: (ii) Cooperation in this field shall be closely related to the work of the military agency for standardization of the North Atlantic Treaty Organization. As an immediate step, a common system of equipment referencing shall be sought. The military authorities of the United Kingdom and of the European Defense Community shall exchange all the necessary documentary information on equipment and shall arrange the appropriate demonstrations.

(*c*) *Training*.—The training methods employed by both armed forces shall be, as far as possible, on similar lines. This will be achieved from the early stages of the formation of the European Defense forces by the exchange of personnel and of documentary information and by the allocation of vacancies in United Kingdom military schools and training establishments to personnel of the European Defense Community, and reciprocally. At a later stage, exchanges of units may also be arranged.

These measures will in many cases represent an extension of similar facilities and arrangements at present in force between the United Kingdom and North Atlantic Treaty Organization countries and will be subject to similar financial arrangements.

The manner in which these measures can be applied in the three services is set out in more detail in:

PART II

[3] It is recognized that the extent to which the common aims can be achieved will be conditioned by the following factors:

(*a*) the obligation to conform with the doctrines and policy of the North Atlantic Treaty Organization;

(*b*) the stage of evolution of the European Defense Forces;

(*c*) the special characteristics of each service; it is probable that the closest association can be achieved in the case of air forces;

(*d*) such security regulations as may be laid down by the parties;

(*e*) the resources which may be available, bearing in mind the other commitments of the United Kingdom and of the European Defense Community.

These resources are likely to vary between each Service.

MEASURES TO BE TAKEN BY EACH SERVICE FOR PRACTICAL COLLABORATION BETWEEN THE FORCES OF THE UNITED KINGDOM AND THE EUROPEAN DEFENSE COMMUNITY

AIR FORCE

1. In the early stages of the formation of the European air force, the Royal Air Force will assist, if desired:—

(a) in the establishment of the headquarters of the European air force, including the secondment of officers;

(b) by the secondment of officers, at all levels, to the European air force for command and staff service, including technical and administrative, and for flying duties;

(c) in the formation of the European air defense command and training command;

(d) by providing some initial and refresher flying and technical training, and in the organization or and supervision in technical schools.

2. When the European air force is more fully established collaboration may take the following forms:—

(a) secondment of Royal Air Force staff officers for duty with the headquarters of the European air force and *vice versa*;

(b) secondment of Royal Air Force officers to the European air force for command and staff service, including technical and administrative, and for flying duties, and similarly of European air force officers to the Royal Air Force;

(c) participation in integrated headquarters staffs in the circumstances described in Article 69 (Paragraph 3) of the treaty establishing the European Defense Community;

(d) Royal Air Force assistance in the organization of European air defense including the setting-up of close links between control and reporting systems of the European defense forces and those of the Royal Air Force;

(e) joint study of the possibility of the correlation of the aircraft production and air training programmes of the European Defense Community and the United Kingdom.

3. The closest association will be established between the European air force and the Royal air Force formations placed under the command of the Supreme Allied Commander, Europe. The detailed measures of association which may be arranged will be determined by joint consultation with SACEUR. (Supreme Allied Commander, Europe.) Such arrangements may include:

(a) the inclusion of individual Royal Air Force wings within European air force formations, and *vice versa*, where military considerations make this desirable and logistic considerations make it practicable;

(b) the training by the Royal Air Force of such squadrons as may be nominated by the European Defense Community.

ARMY

4. In the early stages of the formation of the European army, the British Army will, if desired, assist them in their planning in the following ways:

(a) by the secondment of officers to the headquarters of the European army and to its training and logistics staffs;

(b) by the extension to the European army of the present arrangements whereby vacancies are made available at United Kingdom schools to forces of the North Atlantic Treaty Organization. (The United Kingdom schools concerned are the Staff College, Arms Schools, the Schools of Land-Air Warfare, the Joint School of Chemical Warfare and administrative training establishments):

(c) by the provision of suitable tactical demonstrations at the request of the European army.

5. Once the European army is established arrangements may be made for the exchange of personnel similar to those already existing for the exchange of personnel between the United Kingdom forces and forces of the North Atlantic Treaty Organization. Until, however, common doctrines are developed by the United Kingdom and European defense forces, the level and number of such exchanges will necessarily be limited and on the following lines:

(a) between European army staffs and those of the headquarters of the British Army stationed on the Continent, including an exchange of liaison officers where appropriate;

(b) between officers of combatant and administrative units, for limited periods;

(c) between students at such schools and training establishments as may be agreed.

6. The closest association will be established between the land formations of the European Defense Community and those of the United Kingdom placed under the command of the Supreme Allied Commander, Europe. Detailed measures of association which may be arranged will be determined by joint consultation with SACEUR. If requested by SACEUR, such arrangements may include:—

(a) the inclusion of British Army formations within European army formations, and *vice versa*, where military considerations make it practicable;

(b) large scale joint United Kingdom and European Defense Community Maneuvers within the North Atlantic Treaty Organization. In this case the directing and umpiring staffs may be integrated temporarily;

(c) the participation of United Kingdom divisions in training and exercises with the European army under the over-all command of SACEUR, and *vice versa*. In similar conditions, small units of the British Army may take part in formation training with the European army and *vice versa*.

NAVY

7. Close association already exists between navies of the countries of the North Atlantic Treaty Organization and the Royal Navy, and will be extended to the

European Defense Community. Assistance during the build-up period may be of particular value.

8. The Royal Navy will cooperate in the following ways:—

(a) by the provision of limited training facilities;

(b) by the participation of Royal Navy units in training and at naval or amphibious exercises which include European naval forces;

(c) by close cooperation with the European Defense Community in the organization, working and function of the European admiralty, including the appointment of a liaison officer;

(d) by advising on the development of the European navy.

(C) MESSAGE OF THE PRESIDENT OF THE UNITED STATES STATING THE UNITED STATES POSITION ON THE RELATION BETWEEN THE EUROPEAN DEFENSE COMMUNITY AND THE NORTH ATLANTIC TREATY ORGANIZATION, 16 APRIL 1954

On 4 April 1951 the Senate of the United States, by a vote of 69 to 21, adopted Senate Resolution 99 (82d Congress, 1st session), section 2 of which runs as follows:

"It is the belief of the Senate that the threat to the security of the United States and our North Atlantic Treaty partners makes it necessary for the United States to station abroad such members of our Armed Forces as may be necessary and appropriate to contribute our fair share of the forces needed for the joint defense of the North Atlantic area." (U. S. Congressional Record, vol. 97, part 3 (1951), p. 3282).

On 16 April 1954, President Eisenhower sent to the Premiers of the six signatories of the Treaty establishing the European Defense Community the message reproduced below. The text is from the "New York Times" of 17 April 1954, p. 2.

As the time approaches for historic decision on the remaining measures required to put into effect the European Defense Community treaty, it is appropriate for me to state clearly the United States' position on the relation between the European Army and the European community on the one hand, and the North Atlantic Treaty Organization and the broader Atlantic community on the other hand. The essential elements of this position, which have been discussed with leaders of both political parties in the Congress, may be simply stated.

The United States is firmly committed to the North Atlantic Treaty. This treaty is in accordance with the basic security interests of the United States and will steadfastly serve these interests regardless of the fluctuations in the international situation or our relations with any country. The obligations which the United States has assumed under the treaty will be honored.

The North Atlantic Treaty has a significance which transcends the mutual obligations assumed. It has engendered an active practical working relationship among the Atlantic nations. Through the North Atlantic Treaty Organization, the United States and its allies are working to build the concrete strength needed to deter aggression and, if aggression occurs, to halt it without the devastation or occupation of any NATO country. These nations are also seeking to make the Atlantic alliance an enduring association of free peoples, within which all members can concert their efforts toward peace, prosperity and freedom.

The European Defense Community will form an integral part of the Atlantic Community and, within this framework, will insure intimate and durable cooper-

ation between the United States forces and the forces of the European Defense Community on the Continent of Europe. I am convinced that the coming into force of the European Defense Community Treaty will provide a realistic basis for consolidating Western defense and will lead to an ever-developing community of nations in Europe.

The United States is confident that, with these principles in mind, the Western European nations concerned will proceed promptly further to develop the European community through ratification of the European Defense Community Treaty. When that treaty comes into force the United States, acting in accordance with its rights and obligations under the North Atlantic Treaty, will conform its actions to the following policies and undertakings:

1. The United States will continue to maintain in Europe, including Germany, such units of its armed forces as may be necessary and appropriate to contribute its fair share of the forces needed for the joint defense of the North Atlantic areas while a threat to that area exists, and will continue to deploy such forces in accordance with agreed North Atlantic strategy for the defense of this area.

2. The United States will consult with its fellow signatories to the North Atlantic Treaty, and with the European Defense Community, on questions of mutual concern, including the level of the respective armed forces of the European Defense Community, the United States and other North Atlantic Treaty countries to be placed at the disposal of the Supreme Commander in Europe.

3. The United States will encourage the closest possible integration between the European Defense Community forces on the one hand, and the United States and other North Atlantic Treaty forces on the other, in accordance with approved plans with respect to their command, training, tactical support and logistical organization developed by the military agencies and the supreme commanders of the North Atlantic Treaty Organization.

4. The United States will continue, in conformity with my recommendations to the Congress, to seek means of extending to the Atlantic community increased security by sharing in greater measure information with respect to the military utilization of new weapons and techniques for the improvement of the collective defense.

5. In consonance with its policy of full and continuing support for the maintenance of the integrity and unity of the European Defense Community, the United States will regard any action from whatsoever quarter which threatens that integrity or unity as a threat to the security of the United States. In such event, the United States will consult in accordance with the provisions of Article 4 of the North Atlantic Treaty.

6. In accordance with the basic interest of the United States in the North Atlantic Treaty, as expressed at the time of ratification, the treaty was regarded as of indefinite duration rather than for any definite number of years. The United States calls attention to the fact that for it to cease to be a party to the North Atlantic Treaty would appear quite contrary to our security interests when there is established on the Continent of Europe the solid core of unity which the European Defense Community will provide.

5. Additional Protocols; Texts Adopted at Paris, 24 March 1953

NOT YET SIGNED ON 1 APRIL 1954

On 24 March 1953, the Interim Committee, set up by a Protocol to the European Defense Community Treaty meeting in Paris, adopted the texts of six "additional protocols" based on proposals by the French Government. These texts, which are reproduced below, were published simultaneously by the governments of the six member States of the Community on 18 June 1953. The protocols, which are intended to have equal significance with the Treaty and its annexes, and have been approved by the NATO Council, have not yet been formally signed by the Foreign Ministers. The procedures for ratification within the respective countries have not yet been determined. The text is from *Ministère des Affaires Etrangères, Annexe au Bulletin Quotidien (La Documentation Française)*, No. 2503 of 22 June 1953 (unofficial translation supplied by the Press and Information Service of the French Embassy).

AGREEMENT ON THE IMPLEMENTATION OF ARTICLE 10 OF THE TREATY

The Governments signatory to the Treaty instituting the European Defense Community, anxious to specify the measures designed to facilitate the proper implementation of Article 10, Section 5, Paragraph 2—in connection with Article 31, Sections 2 and 3, and in accordance with the provisions of the Treaty—are agreed upon the following:

ARTICLE I. The present agreement applies to the military personnel of the land and air forces placed at the disposal of the European Defense Community or included in the national armed forces referred to in Article 10 of the Treaty.

ARTICLE II. In pursuance of Article 10, 31 and 73 of the Treaty and of Chapter 3 of the Military Protocol, each member State shall be entitled to assign its new recruits either to the contingents placed at the disposal of the Community, or to its own national forces.

ARTICLE III. Without prejudice to the powers of the Commissariat referred to in Article 31 of the Treaty, each member State shall also decide—in accordance with the power granted to it, and under the conditions set forth in Article 10, Section 5, Paragraph 2, of the Treaty—upon the exchange of individual personnel between the contingents placed at the disposal of the Community and those belonging to the national armed forces.

ARTICLE IV. In regard to the application of Article 31, Section 2, of the Treaty, the Governments of the member States having opted for the first of the procedures set forth on a temporary basis in said article, shall—in accordance with the provisions of Article 11 of the Military Protocol—decide upon promotions and reductions in rank, and, in general, upon all demotions or dishonorable discharges. The proper national authorities shall make known these decisions after a judgment has been rendered by a competent court or a disciplinary measure has been taken following the regulations applied under Article 11 of the Military Protocol.

These decisions shall be taken:

1) upon the proposal of the Commissariat, with regard to the personnel serving in the European Defense Forces;

2) under the conditions set forth in the laws of each nation, with regard to the personnel serving in the national armed forces.

ARTICLE V. When the member States opt in favor of the second procedure set forth on a temporary basis in Section 2, Article 31 of the Treaty, decisions regarding promotions, reductions in rank, and, in general, all demotions or dishonorable discharges shall be taken:

1) by the Commissariat—upon recommendation coming through the appropriate chain of command, after consultation with national authorities—with regard to the personnel serving in the European defense forces;

2) under the conditions set forth in the laws of each nation, with regard to the personnel serving in the national armed forces.

ARTICLE VI. The Commissariat shall supply the Government of each member State with all necessary information enabling it to draw up, if it deems advisable, a single promotion list including all its military personnel.

ARTICLE VII. Until common texts relative to the personnel of the European Defense Forces go into effect, the status of the military personnel placed by a member State at the disposal of the Community or serving in the national armed forces shall be governed—in accordance with Article 11, Paragraph 2, of the Military Protocol—by the laws or regulations of that State.

ARTICLE VIII. When the texts referred to in Article 11 of the Military Protocol have been approved under the conditions set forth in Article 44 of the Treaty, each member State shall be empowered, if it deems necessary, to adapt the regulations governing its national forces to those governing the forces of the Community.

Should the texts referred to in Article 11 of the Military Protocol provide that special regulations be applied to certain specialized corps, each member State shall be empowered, if it deems necessary, to adapt these special regulations to the corresponding European regulations.

The Commissariat shall supply the member States with all necessary information enabling them to set up and maintain the regulations governing their national forces in conformity with the European regulations.

This information shall refer to all rules and instructions applying to the personnel.

ARTICLE IX. With regard to certain categories of personnel—not including officers—to be defined by common agreement, the Government of the member State may grant to its temporary delegations to the Commissariat powers resulting from the option provided for in Section 2, Article 31, of the Treaty.

With regard to this personnel, the Commissariat may, with the consent of the Government of the interested member State, delegate certain of these powers to its subordinate authorities.

PROTOCOL RELATIVE TO ARTICLE 43 BIS

The Governments of the States signatory to the Treaty instituting the European Defense Community,

Noting that "the date set for the complete execution of the plan for the formation of the first echelon of the forces," referred to in Article 43 Bis of the Treaty, is not sufficiently specific; that it is essential, therefore, to fill this gap in order to ensure the application of this article; and that the best procedure in this respect is to supplement on this point the agreement referred to in Article 15, Section 3,

Are agreed upon the following:

As soon as the Treaty goes into effect, the agreement referred to in Article 15, Section 3 shall be supplemented—under the conditions set forth in Article 15, Section 3, and Article 44 of the Treaty—by provisions which, without impairing the Treaty itself, shall define the conditions under which the date of execution of the plan for the formation of the first echelon of the forces shall be set, either by directly fixing this date, or by prescribing the manner in which it could be fixed.

AGREEMENT ON A JOINT DIRECTIVE CONCERNING TRAINING SCHOOLS

The Governments of the States signatory to the Treaty instituting the European Defense Community jointly pledge themselves to instruct their respective representatives to the Council of Ministers of the Community to issue the following directives to the Commissariat, in application of Article 39, Section 2 of the Treaty:

1) European schools shall be open to the personnel of the national forces defined in Article 10 of the Treaty. The financial terms governing application of this provision shall be stipulated by the Commissariat, after consultation with the native State of the personnel benefiting from it.

2) As soon as the Treaty goes into effect, the Commissariat may organize—in accordance with Article 27 of the Military Protocol, in addition to the courses already referred to in Section 1 of this article—elementary and higher European courses.

As soon as the Treaty goes into effect, and during the transitional period referred to in Article 27, Section 2, Paragraph 6 of the Military Protocol, the Commissariat shall organize student exchanges among the European schools referred to *in fine* in this provision.

3) The duration of the transitional period referred to in Article 27, Section 2, Paragraph 6 of the Military Protocol shall be fixed by the Commissariat after consultation with the Council.

AGREEMENT ON A JOINT DIRECTIVE CONCERNING ARTICLE 75

The Governments of the States signatory to the Treaty instituting the European Defense Community jointly pledge themselves to instruct their respective representatives to the Council of Ministers of the Community to issue the following directives to the Commissariat, in pursuance of Article 39, Section 2 of the Treaty:

1) The mobilization plans for the European Defense forces—including the forces for internal defense—referred to in Article 75 of the Treaty are designed to determine the requirements for putting and maintaining those forces on a war footing, as well as the conditions under which these requirements shall be met.

Mobilization of the other resources of the member States is not involved.

2) Until the agreements provided for in Article 75, Paragraph 2 of the Treaty are concluded, only the competent national services shall be responsible for furnishing the men and matériel required, under the mobilization plans, to bring the European forces to their full war strength, without prejudice to the inspection and supervision exercised by the Commissariat under the provisions of Article 76.

AGREEMENT ON A JOINT DIRECTIVE CONCERNING ARTICLE 107

The Governments of the States signatory to the Treaty instituting the European Defense Community jointly pledge themselves to instruct their respective representatives to the Council of Ministers of the Community to issue the following directives to the Commissariat, in accordance with Article 39, Section 2 of the Treaty:

The general licenses provided for in Article 107 shall be granted as soon as the Treaty goes into effect. They may not include any time, quality or quantity restrictions other than those stipulated in Paragraphs e and f of Section 4 of said article.

Private and public companies, as well as the States themselves insofar as they are responsible for the activity of their services, are compelled to observe these restrictions under the penalties provided for in Section 6 of Article 107.

The interested governments shall furnish all necessary information to the Commissariat in order to facilitate the controls exercised by the latter under the provisions of Article 107, Section 4, Paragraph e and f.

AGREEMENT CONCERNING ARTICLE 13

The Governments of the States signatory to the Treaty instituting the European Defense Community are agreed upon the following:

(1) These Governments jointly pledge themselves to instruct their respective representatives to the Council of Ministers of the Community to issue the following directive to the Commissariat, as soon as the Treaty goes into effect, and in accordance with Article 39, Section 2:

In pursuance of Article 13 of the Treaty, the Commissariat shall immediately place forces at the disposal of the State having made a request which it considered urgent, as soon as that State shall have notified the Commissariat and the Competent Supreme Commander of its request.

(2) The Governments of the signatory States consider that, in the case referred to in Section 1 above, the Supreme Commander cannot refuse to give his consent except if it be established, under the provisions of the Treaty and its Annexes,

that the withdrawal in question is such as to jeopardize the security of the Community.

C. PACIFIC AREA SECURITY TREATIES

Although proposals for a Far Eastern Defense Organization, as well as for a Middle East Defense Organization, have been brought forward at various times, the arrangements for collective security in the Pacific area existing in April 1954 consisted simply of one trilateral and two bilateral treaties, concluded by the United States with Australia and New Zealand, with the Philippines, and with Japan, respectively, in August and September 1951.

In addition, the United States has concluded Mutual Defense Assistance Agreements with a number of states in the Pacific area and in Asia, and a series of Agreements on Military Bases with the Republic of the Philippines.

1. Mutual Defense Treaty Between the United States and the Republic of the Philippines, Washington, 30 August 1951

This Treaty, concluded at Washington on 30 August 1951, was the first of the Pacific area security treaties to be signed. It entered into force with the exchange of instruments of ratification in accordance with the provisions of Article VII, at Manila on 27 August 1952, and was the last of the three to come into force. The text is from U. S. Treaties and other International Acts Series 2529.

The Provisional Agreement and the Treaty of General Relations between the United States of America and the Republic of the Philippines, both signed at Manila on 4 July 1946 (U. S. Treaties and other International Acts Series 1539 and 1568), the Agreement concerning Military Bases in the Philippines signed at Manila on 14 March 1947 (U. S. Treaties and other International Acts Series 1775), and the Agreement on Military Assistance signed at Manila on 21 March 1947 (U. S. Treaties and other International Acts Series 1662) were all reproduced in International Law Documents 1946-1947, pp. 154-189.

An Agreement on Military Assistance to the Philippines, supplementing and extending the Agreement of 21 March 1947, was effected by exchange of notes signed at Manila on 24 February, 11 March, and 13 March 1951, and entered into force on 13 March 1950 (U. S. Treaties and other International Acts Series 2080). Various Agreements on Military Bases in the Philippines, implementing the Agreement of 14 March 1947, the most recent being an exchange of notes of 29 December 1952, have been published in U. S. Treaties and other International Acts Series 2406 and 2739.

The Parties to this Treaty,

Reaffirming their faith in the purposes and principles of the Charter of the United Nations and their desire to live in peace with all peoples and all Governments, and desiring to strengthen the fabric of peace in the Pacific Area,

Recalling with mutual pride the historic relationship which brought their two peoples together in a common bond of sympathy and mutual ideals to fight side-by-side against imperialist aggression during the last war.

Desiring to declare publicly and formally their sense of unity and their common determination to defend themselves against external armed attack, so that no potential aggressor could be under the illusion that either of them stands alone in the Pacific Area,

Desiring further to strengthen their present efforts for collective defense for the preservation of peace and security pending the development of a more comprehensive system of regional security in the Pacific Area.

Agreeing that nothing in this present instrument shall be considered or interpreted as in any way or sense altering or diminishing any existing agreements or understandings between the United States of America and the Republic of the Philippines,

Have agreed as follows:

ARTICLE I. The Parties undertake, as set forth in the Charter of the United Nations, to settle any international disputes in which they may be involved by peaceful means in such a manner that international peace and security and justice are not endangered and to refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes of the United Nations.

ARTICLE II. In order more effectively to achieve the objective of this Treaty, the Parties separately and jointly by self-help and mutual aid will maintain and develop their individual and collective capacity to resist armed attack.

ARTICLE III. The Parties, through their Foreign Ministers or their deputies, will consult together from time to time regarding the implementation of this Treaty and whenever in the opinion of either of them the territorial integrity, political independence or security of either of the Parties is threatened by external armed attack in the Pacific.

ARTICLE IV. Each Party recognizes that an armed attack in the Pacific Area on either of the Parties would be dangerous to its own peace and safety and declares that it would act to meet the common dangers in accordance with its constitutional processes.

Any such armed attack and all measures taken as a result thereof shall be immediately reported to the Security Council of the United Nations. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security.

ARTICLE V. For the purpose of Article IV, an armed attack on either of the Parties is deemed to include an armed attack on the metropolitan territory of either of the Parties, or on the island territories under its jurisdiction in the Pacific or on its armed forces, public vessels or aircraft in the Pacific.

ARTICLE VI. This Treaty does not affect and shall not be interpreted as affecting in any way the rights and obligations of the Parties under the Charter of the United Nations or the responsibility of the United Nations for the maintenance of international peace and security.

ARTICLE VII. This Treaty shall be ratified by the United States of America and the Republic of the Philippines in accordance with their respective constitutional processes and will come into force when instruments of ratification thereof have been exchanged by them at Manila.

ARTICLE VIII. This Treaty shall remain in force indefinitely. Either Party may terminate it one year after notice has been given to the other Party.

IN WITNESS WHEREOF the undersigned Plenipotentiaries have signed this Treaty.

DONE in duplicate at Washington this thirtieth day of August 1951.

2. Security Treaty Between the United States of America, Australia, and New Zealand, San Francisco, 1 September 1951

This Treaty, sometimes referred to as the "ANZUS" Treaty, was signed in San Francisco on 1 September 1951, two days after the signature in Washington of the Mutual Defense Treaty with the Philippines, and one week before the signature at San Francisco of the Treaty of Peace and Security Treaty with Japan. Ratification by the United States took place on 15 April 1952, and the instruments of ratification of all three signatories were deposited with the Government of Australia on 29 April 1952, thus bringing the Treaty into force in accordance with Article IX. The text appears in U. S. Treaties and other International Acts Series 2493.

The United States concluded Mutual Defense Assistance Agreements with Australia by exchange of notes on 1 and 20 February 1951 (U. S. Treaties and other International Acts Series 2217) and with New Zealand by exchange of notes on 19 June 1952 (U. S. Treaties and other International Acts Series 2590).

The Parties to this Treaty,

Reaffirming their faith in the purposes and principles of the Charter of the United Nations and their desire to live in peace with all peoples and all Governments, and desiring to strengthen the fabric of peace in the Pacific Area,

Noting that the United States already has arrangements pursuant to which its armed forces are stationed in the Philippines, and has armed forces and administrative responsibilities in the Ryukyus, and upon the coming into force of the Japanese Peace Treaty may also station armed forces in and about Japan to assist in the preservation of peace and security in the Japan Area,

Recognizing that Australia and New Zealand as members of the British Commonwealth of Nations have military obligations outside as well as within the Pacific Area,

Desiring to declare publicly and formally their sense of unity, so that no potential aggressor could be under the illusion that any of them stand alone in the Pacific Area, and

Desiring further to coordinate their efforts for collective defense for the preservation of peace and security pending the development of a more comprehensive system of regional security in the Pacific Area,

Therefore declare and agree as follows:

ARTICLE I. The Parties undertake, as set forth in the Charter of the United Nations, to settle any international disputes in which they may be involved by peaceful means in such a manner that international peace and security and justice are not endangered and to refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes of the United Nations.

ARTICLE II. In order more effectively to achieve the objective of this Treaty the Parties separately and jointly by means of continuous and effective self-help and mutual aid will maintain and develop their individual and collective capacity to resist armed attack.

ARTICLE III. The Parties will consult together whenever in the opinion of any of them the territorial integrity, political independence or security of any of the Parties is threatened in the Pacific.

ARTICLE IV. Each Party recognizes that an armed attack in the Pacific Area on any of the Parties would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional processes.

Any such armed attack and all measures taken as a result thereof shall be immediately reported to the Security Council of the United Nations. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security.

ARTICLE V. For the purpose of Article IV, an armed attack on any of the Parties is deemed to include an armed attack on the metropolitan territory of any of the Parties, or on the island territories under its jurisdiction in the Pacific or on its armed forces, public vessels or aircraft in the Pacific.

ARTICLE VI. This Treaty does not affect and shall not be interpreted as affecting in any way the rights and obligations of the Parties under the Charter of the United Nations or the responsibility of the United Nations for the maintenance of international peace and security.

ARTICLE VII. The Parties hereby establish a Council, consisting of their Foreign Ministers or their Deputies, to consider matters concerning the implementation of this Treaty. The Council should be so organized as to be able to meet at any time.

ARTICLE VIII. Pending the development of a more comprehensive system of regional security in the Pacific Area and the development by the United Nations of more effective means to maintain international peace and security, the Council, established by Article VII, is authorized to maintain a consultative relationship with States, Regional Organizations, Associations of States or other authorities in the Pacific Area in a position to further the purposes of this Treaty and to contribute to the security of that Area.

ARTICLE IX. This Treaty shall be ratified by the Parties in accordance with their respective constitutional processes. The instruments of ratification shall be deposited as soon as possible with the Government of Australia, which will notify each of the other signatories of such deposit. The Treaty shall enter into force as soon as the ratifications of the signatories have been deposited.

ARTICLE X. This Treaty shall remain in force indefinitely. Any Party may cease to be a member of the Council established by Article VII one year after notice has been given to the Government of Australia, which will inform the Governments of the other Parties of the Deposit of such notice.

ARTICLE XI. This Treaty in the English language shall be deposited in the archives of the Government of Australia. Duly certified copies thereof will be transmitted by that Government to the Governments of each of the other signatories.

IN WITNESS WHEREOF the undersigned Plenipotentiaries have signed this Treaty.
DONE at the city of San Francisco this first day of September, 1951.

3. Agreements With Japan

(A) SECURITY TREATY BETWEEN THE UNITED STATES OF AMERICA AND JAPAN, SAN FRANCISCO, 8 SEPTEMBER 1951

This Treaty was signed at San Francisco on 8 September 1951. On the same day the Treaty of Peace with Japan was signed at San Francisco by the plenipotentiaries of 49 countries. The Security Treaty came into force on 28 April 1952 with the exchange of instruments of ratification at Washington, in accordance with the terms of Article V. The text is from U. S. Treaties and other International Acts Series 2491.

On 28 February 1952, an Administrative Agreement, 29 articles in length, of the character foreseen by Article III of the Security Treaty, was signed at Tokyo. In accordance with the terms of its twenty-seventh article, it came into force on the same date as the Security Treaty, 28 April 1952 (U. S. Treaties and other International Acts Series 2492). On 23 March 1953, in accordance with a provision in paragraph 3 (d) of Article XVIII of the Administrative Agreement, the United States and Japan concluded by exchange of notes at Tokyo an Agreement, entering into force on the same date, on Settlement of Costs for Claims arising under that Article (U. S. Treaties and other International Acts Series 2783).

Japan has this day signed a Treaty of Peace with the Allied Powers. On the coming into force of that Treaty, Japan will not have the effective means to exercise its inherent right of self-defense because it has been disarmed.

There is danger to Japan in this situation because irresponsible militarism has not yet been driven from the world. Therefore Japan desires a Security Treaty with the United States of America to come into force simultaneously with the Treaty of Peace between the United States of America and Japan.

The Treaty of Peace recognizes that Japan as a sovereign nation has the right to enter into collective security arrangements, and further, the Charter of the United Nations recognizes that all nations possess the inherent right of individual and collective self-defense.

In exercise of these rights, Japan desires, as a provisional arrangement for its defense, that the United States of America should maintain armed forces of its own in and about Japan so as to deter armed attack upon Japan.

The United States of America, in the interest of peace and security, is presently willing to maintain certain of its armed forces in and about Japan, in the expectation, however, that Japan will itself increasingly assume responsibility for its own defense against direct and indirect aggression, always avoiding any armament which could be an offensive threat or serve other than to promote peace and security in accordance with the purposes and principles of the United Nations Charter.

Accordingly, the two countries have agreed as follows:

ARTICLE I. Japan grants, and the United States of America accepts, the right, upon the coming into force of the Treaty of Peace and of this Treaty, to dispose United States land, air and sea forces in and about Japan. Such forces may be utilized to contribute to the maintenance of international peace and security in the Far East and to the security of Japan against armed attack from without, including assistance given at the express request of the Japanese Government to

put down large-scale internal riots and disturbances in Japan, caused through instigation or intervention by an outside power or powers.

ARTICLE II. During the exercise of the right referred to in Article I, Japan will not grant, without the prior consent of the United States of America, any bases or any rights, powers or authority whatsoever, in or relating to bases or the right of garrison or of maneuver, or transit of ground, air or naval forces to any third power.

ARTICLE III. The conditions which shall govern the disposition of armed forces of the United States of America in and about Japan shall be determined by administrative agreements between the two Governments.

ARTICLE IV. This Treaty shall expire whenever in the opinion of the Governments of the United States of America and Japan there shall have come into force such United Nations arrangements or such alternative individual or collective security dispositions as will satisfactorily provide for the maintenance by the United Nations or otherwise of international peace and security in the Japan Area.

ARTICLE V. This Treaty shall be ratified by the United States of America and Japan and will come into force when instruments of ratification thereof have been exchanged by them at Washington.

IN WITNESS WHEREOF the undersigned Plenipotentiaries have signed this Treaty.

DONE in duplicate at the city of San Francisco, in the English and Japanese languages, this eighth day of September, 1951.

(B) ADMINISTRATIVE AGREEMENT UNDER ARTICLE III OF THE SECURITY TREATY BETWEEN THE UNITED STATES OF AMERICA AND JAPAN, TOKYO, 28 FEBRUARY 1952

On 28 February 1952, an Administrative Agreement, of the character foreseen by Article III of the Security Treaty between the United States and Japan, was signed at Tokyo. This Agreement makes the practical administrative arrangements for the disposition of the United States armed forces called for by the Security Treaty; it does not deal with future increases of Japanese defensive capacity, or contain commitments to any action to be taken in an emergency (except an agreement to consult). In an exchange of notes of the same date, the Japanese Government agreed to grant to the United States the continued use of facilities and areas (then enjoyed on the basis of occupation requisition, which would be terminated by the coming into force of the Treaty of Peace), pending the determination and preparation of facilities and areas necessary to carry out the purposes stated in Article I of the Security Treaty. The two Governments further agreed to begin consultations on such facilities and areas immediately

In accordance with the terms of its twenty-seventh article, the Administrative Agreement came into force on the same date as the Security Treaty, 28 April 1952. The text (including that of the exchange of notes, which is not reproduced here) is in U. S. Treaties and Other International Acts Series 2492.

On 23 March 1953, the two Governments agreed in an exchange of notes that the cost incurred in satisfying claims pursuant to paragraph 3 of Article XVIII of the Administrative Agreement should be shared in the proportion of 75 percent chargeable to the United States and 25 percent chargeable to Japan, retroactive to the date when the Agreement entered into force (U. S. Treaties and Other International Acts Series 2783).

A Protocol on jurisdictional arrangements for United States forces in Japan wholly replaced the provisions of Article XVII of the Administrative Agreement, on 28 October 1953.

PREAMBLE. Whereas the United States of America and Japan on September 8, 1951, signed a Security Treaty which contains provisions for the disposition of United States land, air and sea forces in and about Japan;

And whereas Article III of that Treaty states that the conditions which shall govern the disposition of the armed forces of the United States in and about Japan shall be determined by administrative agreements between the two Governments;

And whereas the United States of America and Japan are desirous of concluding practical administrative arrangements which will give effect to their respective obligations under the Security Treaty and will strengthen the close bonds of mutual interest and regard between their two peoples;

Therefore, the Governments of the United States of America and of Japan have entered into this Agreement in terms as set forth below:

ARTICLE I. In this Agreement the expression—

(a) “members of the United States armed forces” means the personnel on active duty belonging to the land, sea or air armed services of the United States of America when in the territory of Japan.

(b) “civilian component” means the civilian persons of United States nationality who are in the employ of, serving with, or accompanying the United States armed forces in Japan, but excludes persons who are ordinarily residents in Japan or who are mentioned in paragraph 1 of Article XIV. For the purposes of this Agreement only, dual nationals, United States and Japanese, who are brought to Japan by the United States shall be considered as United States nationals.

(c) “dependents” means

(1) Spouse, and children under 21;

(2) Parents, and children over 21, if dependent for over half their support upon a member of the United States armed forces or civilian component.

ARTICLE II. 1. Japan agrees to grant to the United States the use of the facilities and areas necessary to carry out the purposes stated in Article I of the Security Treaty. Agreements as to specific facilities and areas, not already reached by the two Governments by the effective date of this Agreement, shall be concluded by the two Governments through the Joint Committee provided for in Article XXVI of this Agreement. “Facilities and areas” include existing furnishings, equipment and fixtures necessary to the operation of such facilities and areas.

2. At the request of either party, the United States and Japan shall review such arrangements and may agree that such facilities and areas shall be returned to Japan or that additional facilities and areas may be provided.

3. The facilities and areas used by the United States armed forces shall be returned to Japan whenever they are no longer needed for purposes of this Agreement, and the United States agrees to keep the needs for facilities and areas under continual observation with a view toward such return.

4. (a) When facilities and areas such as target ranges and maneuver grounds are temporarily not being used by the United States armed forces, interim use

may be made by Japanese authorities and nationals provided that it is agreed that such use would not be harmful to the purposes for which the facilities and areas are normally used by the United States armed forces.

(b) With respect to such facilities and areas as target ranges and maneuver grounds which are to be used by United States armed forces for limited periods of time, the Joint Committee shall specify in the agreements covering such facilities and areas the extent to which the provisions of this Agreement shall apply.

ARTICLE III. 1. The United States shall have the rights, power and authority within the facilities and areas which are necessary or appropriate for their establishment, use, operation, defense or control. The United States shall also have such rights, power and authority over land, territorial waters and airspace adjacent to, or in the vicinities of such facilities and areas, as are necessary to provide access to such facilities and areas for their support, defense and control. In the exercise outside the facilities and areas of the rights, power and authority granted in this Article, there should be, as the occasion requires, consultation between the two Governments through the Joint Committee.

2. The United States agrees that the above-mentioned rights, power and authority will not be exercised in such a manner as to interfere unnecessarily with navigation, aviation, communication, or land travel to or from or within the territories of Japan. All questions relating to frequencies, power and like matters used by apparatus employed by the United States designed to emit electric radiation shall be settled by mutual arrangement. As a temporary measure the United States armed forces shall be entitled to use, without radiation interference from Japanese sources, electronic devices of such power, design, type of emission, and frequencies as are reserved for such forces at the time this Agreement becomes effective.

3. Operations in the facilities and areas in use by the United States armed forces shall be carried on with due regard for the public safety.

ARTICLE IV. 1. The United States is not obliged, when it returns facilities and areas to Japan on the expiration of this Agreement or at an earlier date, to restore the facilities and areas to the condition in which they were at the time they became available to the United States armed forces, or to compensate Japan in lieu of such restoration.

2. Japan is not obliged to make any compensation to the United States for any improvements made in the facilities and areas or for the buildings or structures left thereon on the expiration of this Agreement or the earlier return of the facilities and areas.

3. The foregoing provisions shall not apply to any construction which the United States may undertake under special arrangements with Japan.

ARTICLE V. 1. United States and foreign vessels and aircraft operated by, for, or under the control of the United States for official purposes shall be accorded access to any port or airport of Japan free from toll or landing charges. When cargo or passengers not accorded the exemptions of this Agreement are carried on such vessels and aircraft, notification shall be given to the appropriate Japan-

ese authorities, and such cargo or passengers shall be entered according to the laws and regulations of Japan.

2. The vessels and aircraft mentioned in paragraph 1, United States Government-owned vehicles including armor, and members of the United States armed forces, the civilian component, and their dependents shall be accorded access to and movement between facilities and areas in use by the United States armed forces and between such facilities and areas and the ports of Japan.

3. When the vessels mentioned in paragraph 1 enter Japanese ports, appropriate notification shall, under normal conditions, be made to the proper Japanese authorities. Such vessels shall have freedom from compulsory pilotage, but if a pilot is taken pilotage shall be paid for at appropriate rates.

ARTICLE VI. 1. All civil and military air traffic control and communications systems shall be developed in close coordination and shall be integrated to the extent necessary for fulfillment of collective security interests. Procedures, and any subsequent changes thereto, necessary to effect this coordination and integration will be established by mutual arrangement.

2. Lights and other aids to navigation of vessels and aircraft placed or established in the facilities and areas in use by United States armed forces and in territorial waters adjacent thereto or in the vicinity thereof shall conform to the system in use in Japan. The United States and Japanese authorities which have established such navigation aids shall notify each other of their positions and characteristics and shall give advance notification before making any changes in them or establishing additional navigation aids.

ARTICLE VII. The United States armed forces shall have the right to use all public utilities and services belonging to, or controlled or regulated by the Government of Japan, and to enjoy priorities in such use, under conditions no less favorable than those that may be applicable from time to time to the ministries and agencies of the Government of Japan.

ARTICLE VIII. The Japanese Government undertakes to furnish the United States armed forces with the following meteorological services under present procedures, subject to such modifications as may from time to time be agreed between the two Governments or as may result from Japan's becoming a member of the International Civil Aviation Organization or the World Meteorological Organization:

(a) Meteorological observations from land and ocean areas including observations from weather ships assigned to positions known as "X" and "T".

(b) Climatological information including periodic summaries and the historical data of the Central Meteorological Observatory.

(c) Telecommunications service to disseminate meteorological information required for the safe and regular operation of aircraft.

(d) Seismographic data including forecasts of the estimated size of tidal waves resulting from earthquakes and areas that might be affected thereby.

ARTICLE IX. 1. The United States shall have the right to bring into Japan for purposes of this Agreement persons who are members of the United States armed forces, the civilian component, and their dependents.

2. Members of the United States armed forces shall be exempt from Japanese passport and visa laws and regulations. Members of the United States armed forces, the civilian component, and their dependents shall be exempt from Japanese laws and regulations on the registration and control of aliens, but shall not be considered as acquiring any right to permanent residence or domicile in the territories of Japan.

3. Upon entry into or departure from Japan members of the United States armed forces shall be in possession of the following documents:

(a) personal identity card showing name, date of birth, rank and number, service, and photograph; and

(b) individual or collective travel order certifying to the status of the individual or group as a member or members of the United States armed forces and to the travel ordered.

For purposes of their identification while in Japan, members of the United States armed forces shall be in possession of the foregoing personal identity card.

4. Members of the civilian component, their dependents, and the dependents of members of the United States armed forces shall be in possession of appropriate documentation issued by the United States authorities so that their status may be verified by Japanese authorities upon their entry into or departure from Japan, or while in Japan.

5. If the status of any person brought into Japan under paragraph 1 of this Article is altered so that he would no longer be entitled to such admission, the United States authorities shall notify the Japanese authorities and shall, if such person be required by the Japanese authorities to leave Japan, assure that transportation from Japan will be provided within a reasonable time at no cost to the Japanese Government.

ARTICLE X. 1. Japan shall accept as valid, without a driving test or fee, the driving permit or license or military driving permit issued by the United States to a member of the United States armed forces, the civilian component, and their dependents.

2. Official vehicles of the United States armed forces and the civilian component shall carry distinctive numbered plates or individual markings which will readily identify them.

3. Privately owned vehicles of members of the United States armed forces, the civilian component, and their dependents shall carry Japanese number plates to be acquired under the same conditions as those applicable to Japanese nationals.

ARTICLE XI. 1. Save as provided in this Agreement, members of the United States armed forces, the civilian component, and their dependents shall be subject to the laws and regulations administered by the customs authorities of Japan.

2. All materials, supplies and equipment imported by the United States armed forces, the authorized procurement agencies of the United States armed forces, or by the organizations provided for in Article XV, for the official use of the United States armed forces or for the use of the members of the United States armed forces, the civilian component, and their dependents, and materials, supplies

and equipment which are to be used exclusively by the United States armed forces or are ultimately to be incorporated into articles or facilities used by such forces, shall be permitted entry into Japan; such entry shall be free from customs duties and other such charges. Appropriate certification shall be made that such materials, supplies and equipment are being imported by the United States armed forces, the authorized procurement agencies of the United States armed forces, or by the organizations provided for in Article XV, or, in the case of materials, supplies and equipment to be used exclusively by the United States armed forces or ultimately to be incorporated into articles or facilities used by such forces, that delivery thereof is to be taken by the United States armed forces for the purposes specified above.

3. Property consigned to and for the personal use of members of the United States armed forces, the civilian component, and their dependents, shall be subject to customs duties and other such charges, except that no duties or charges shall be paid with respect to:

(a) Furniture and household goods for their private use imported by the members of the United States armed forces or civilian component when they first arrive to serve in Japan or by their dependents when they first arrive for reunion with members of such forces or civilian component, and personal effects for private use brought by the said persons upon entrance.

(b) Vehicles and parts imported by members of the United States armed forces or civilian component for the private use of themselves or their dependents.

(c) Reasonable quantities of clothing and household goods of a type which would ordinarily be purchased in the United States for everyday use for the private use of members of the United States armed forces, civilian component, and their dependents, which are mailed into Japan through United States military post offices.

4. The exemptions granted in paragraphs 2 and 3 shall apply only to cases of importation of goods and shall not be interpreted as refunding customs duties and domestic excises collected by the customs authorities at the time of entry in cases of purchases of goods on which such duties and excises have already been collected.

5. Customs examination shall not be made in the following cases:

(a) Units and members of the United States armed forces under orders entering or leaving Japan;

(b) Official documents under official seal;

(c) Mail in United States military postal channels and military cargo shipped on a United States Government bill of lading.

6. Except as such disposal may be authorized by the Japanese and United States authorities in accordance with mutually agreed conditions, goods imported into Japan free of duty shall not be disposed of in Japan to persons not entitled to import such goods free of duty.

7. Goods imported into Japan free from customs duties and other such charges pursuant to paragraphs 2 and 3, may be re-exported free from customs duties and other such charges.

8. The United States armed forces, in cooperation with Japanese authorities, shall take such steps as are necessary to prevent abuse of privileges granted to the United States armed forces, members of such forces, the civilian component, and their dependents in accordance with this Article.

9. (a) In order to prevent offenses against laws and regulations administered by the customs authorities of the Japanese Government, the Japanese authorities and the United States armed forces shall assist each other in the conduct of inquiries and the collection of evidence.

(b) The United States armed forces shall render all assistance within their power to ensure that articles liable to seizure by, or on behalf of, the customs authorities of the Japanese Government are handed to those authorities.

(c) The United States armed forces shall render all assistance within their power to ensure the payment of duties, taxes, and penalties payable by members of such forces or of the civilian component, or their dependents.

(d) Vehicles and articles belonging to the United States armed forces seized by the customs authorities of the Japanese Government in connection with an offense against its customs or fiscal laws or regulations shall be handed over to the appropriate authorities of the force concerned.

ARTICLE XII. 1. The United States shall have the right to contract for any supplies or construction work to be furnished or undertaken in Japan for purposes of, or authorized by this Agreement, without restriction as to choice of supplier or person who does the construction work.

2. Materials, supplies, equipment and services which are required from local sources for the maintenance of the United States armed forces and the procurement of which may have an adverse effect on the economy of Japan shall be procured in coordination with, and, when desirable, through or with the assistance of, the competent authorities of Japan.

3. Materials, supplies, equipment and services procured for official purposes in Japan by the United States armed forces, or by authorized procurement agencies of the United States armed forces upon appropriate certification shall be exempt from the following Japanese taxes:

- (a) Commodity tax
- (b) Traveling tax
- (c) Gasoline tax
- (d) Electricity and gas tax.

Materials, supplies, equipment and services procured for ultimate use by the United States armed forces shall be exempt from commodity and gasoline taxes upon appropriate certification by the United States armed forces. With respect to any present or future Japanese taxes not specifically referred to in this Article which might be found to constitute a significant and readily identifiable part of the gross purchase price of materials, supplies, equipment and services procured by the United States armed forces, or for ultimate use by such forces, the two Governments will agree upon a procedure for granting such exemption or relief therefrom as is consistent with the purposes of this Article.

4. Local labor requirements of the United States armed forces or civilian component shall be satisfied with the assistance of the Japanese authorities.

5. The obligations for the withholding and payment of income tax and of social security contributions, and, except as may otherwise be mutually agreed, the conditions of employment and work, such as those relating to wages and supplementary payments, the conditions for the protection of workers, and the rights of workers concerning labor relations shall be those laid down by the legislation of Japan.

6. Members of the civilian component shall not be subject to Japanese laws or regulations with respect to terms and conditions of employment.

7. Neither members of the United States armed forces, civilian component, nor their dependents, shall by reason of this Article enjoy any exemption from taxes or similar charges relating to personal purchases of goods and services in Japan chargeable under Japanese legislation.

8. Except as such disposal may be authorized by the Japanese and United States authorities in accordance with mutually agreed conditions, goods purchased in Japan exempt from the taxes referred to in paragraph 3, shall not be disposed of in Japan to persons not entitled to purchase such goods exempt from such tax.

ARTICLE XIII. 1. The United States armed forces shall not be subject to taxes or similar charges on property held, used or transferred by such forces in Japan.

2. Members of the United States armed forces, the civilian component, and their dependents shall not be liable to pay any Japanese taxes to the Japanese Government or to any other taxing agency in Japan on income received as a result of their service with or employment by the United States armed forces, or by the organizations provided for in Article XV. The provisions of this Article do not exempt such persons from payment of Japanese taxes on income derived from Japanese sources, nor do they exempt United States citizens who for United States income tax purposes claim Japanese residence from payment of Japanese taxes on income. Periods during which such persons are in Japan solely by reason of being members of the United States armed forces, the civilian component, or their dependents shall not be considered as periods of residence or domicile in Japan for the purpose of Japanese taxation.

3. Members of the United States armed forces, the civilian component, and their dependents shall be exempt from taxation in Japan on the holding, use, transfer *inter se*, or transfer by death of movable property, tangible or intangible, the presence of which in Japan is due solely to the temporary presence of these persons in Japan, provided that such exemption shall not apply to property held for the purpose of investment or the conduct of business in Japan or to any intangible property registered in Japan. There is no obligation under this Article to grant exemption from taxes payable in respect of the use of roads by private vehicles.

ARTICLE XIV. 1. Persons, including corporations organized under the laws of the United States, and their employees who are ordinarily resident in the United

States and whose presence in Japan is solely for the purpose of executing contracts with the United States for the benefit of the United States armed forces shall, except as provided in this Article, be subject to the laws and regulations of Japan.

2. Upon certification by appropriate United States authorities as to their identity, such persons and their employees shall be accorded the following benefits of this Agreement:

(a) Rights of accession and movement, as provided for in Article V, paragraph 2;

(b) Entry into Japan in accordance with the provisions of Article IX;

(c) The exemption from customs duties, and other such charges provided for in Article XI, paragraph 3, for members of the United States armed forces, the civilian component, and their dependents;

(d) If authorized by the United States Government, the right to use the services of the organizations provided for in Article XV;

(e) Those provided for in Article XIX, paragraph 2, for members of the armed forces of the United States, the civilian component, and their dependents;

(f) If authorized by the United States Government, the right to use military payment certificates, as provided for in Article XX;

(g) The use of postal facilities provided for in Article XXI;

(h) Exemption from the laws and regulations of Japan with respect to terms and conditions of employment.

3. Such persons and their employees shall be so described in their passports and their arrival, departure and their residence while in Japan shall from time to time be notified by the United States armed forces to the Japanese authorities.

4. Upon certification by an authorized officer of the United States armed forces depreciable assets except houses, held, used, or transferred, by such persons and their employees exclusively for the execution of contracts referred to in paragraph 1 shall not be subject to taxes or similar charges of Japan.

5. Upon certification by an authorized officer of the United States armed forces, such persons and their employees shall be exempt from taxation in Japan on the holding, use, transfer by death, or transfer to persons or agencies entitled to tax exemption under this agreement, of movable property, tangible or intangible, the presence of which in Japan is due solely to the temporary presence of these persons in Japan, provided that such exemption shall not apply to property held for the purpose of investment or the conduct of other business in Japan or to any intangible property registered in Japan. There is no obligation under this Article to grant exemption from taxes payable in respect of the use of roads by private vehicles.

6. The persons and their employees referred to in paragraph 1 shall not be liable to pay income or corporation taxes to the Japanese Government or to any other taxing agency in Japan on any income derived under a contract made in the United States with the United States Government in connection with the construction, maintenance or operation of any of the facilities or areas covered

by this Agreement. The provisions of this paragraph do not exempt such persons from payment of income or corporation taxes on income derived from Japanese sources, nor do they exempt such persons and their employees who, for United States income tax purposes, claim Japanese residence, from payment of Japanese taxes on income. Periods during which such persons are in Japan solely in connection with the execution of a contract with the United States Government shall not be considered periods of residence or domicile in Japan for the purposes of such taxation.

7. Japanese authorities shall have the primary right to exercise jurisdiction over the persons and their employees referred to in paragraph 1 of this Article in relation to offenses committed in Japan and punishable by the law of Japan. In those cases in which the Japanese authorities decide not to exercise such jurisdiction they shall notify the military authorities of the United States as soon as possible. Upon such notification the military authorities of the United States shall have the right to exercise such jurisdiction over the persons referred to as if conferred on them by the law of the United States.

ARTICLE XV. 1. (a) Navy exchanges, post exchanges, messes, social clubs, theaters, newspapers and other non-appropriated fund organizations authorized and regulated by the United States military authorities may be established in the facilities and areas in use by the United States armed forces for the use of members of such forces, the civilian component, and their dependents. Except as otherwise provided in this Agreement, such organizations shall not be subject to Japanese regulations, license, fees, taxes or similar controls.

(b) When a newspaper authorized and regulated by the United States military authorities is sold to the general public, it shall be subject to Japanese regulations, license, fees, taxes or similar controls so far as such circulation is concerned.

2. No Japanese tax shall be imposed on sales of merchandise and services by such organizations, except as provided in paragraph 1 (b), but purchases within Japan of merchandise and supplies by such organizations shall be subject to Japanese taxes.

3. Except as such disposal may be authorized by the United States and Japanese authorities in accordance with mutually agreed conditions, goods which are sold by such organizations shall not be disposed of in Japan to persons not authorized to make purchases from such organizations.

4. The obligations for the withholding and payment of income tax and of social security contributions, and, except as may otherwise be mutually agreed, the conditions of employment and work, such as those relating to wages and supplementary payments, the conditions for the protection of workers, and the rights of workers concerning labor relations shall be those laid down by the legislation of Japan.

5. The organizations referred to in this Article shall provide such information to the Japanese authorities as is required by Japanese tax legislation.

ARTICLE XVI. It is the duty of members of the United States armed forces, the civilian component, and their dependents to respect the law of Japan and to

abstain from any activity inconsistent with the spirit of this Agreement, and, in particular, from any political activity in Japan.

ARTICLE XVII. 1. Upon the coming into force with respect to the United States of the "Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces", signed at London on June 19, 1951, the United States will immediately conclude with Japan, at the option of Japan, an agreement on criminal jurisdiction similar to the corresponding provisions of that Agreement.

2. Pending the coming into force with respect to the United States of the North Atlantic Treaty Agreement referred to in paragraph 1, the United States service courts and authorities shall have the right to exercise within Japan exclusive jurisdiction over all offenses which may be committed in Japan by members of the United States armed forces, the civilian component, and their dependents, excluding their dependents who have only Japanese nationality. Such jurisdiction may in any case be waived by the United States.

3. While the jurisdiction provided in paragraph 2 is effective, the following provisions shall apply:

(a) Japanese authorities may arrest members of the United States armed forces, the civilian component, or their dependents outside facilities and areas in use by United States armed forces for the commission or attempted commission of an offense, but in the event of such an arrest, the individual or individuals shall be immediately turned over to the United States armed forces. Any person fleeing from the jurisdiction of the United States armed forces and found in any place outside the facilities and areas may on request be arrested by the Japanese authorities and turned over to the United States authorities.

(b) The United States authorities shall have the exclusive right to arrest within facilities and areas in use by United States armed forces. Any person subject to the jurisdiction of Japan and found in any such facility or area will, on request, be turned over to the Japanese authorities.

(c) The United States authorities may, under due process of law, arrest, in the vicinity of such a facility or area, any person in the commission or attempted commission of an offense against the security of that facility or area. Any such person not subject to the jurisdiction of the United States armed forces shall be immediately turned over to Japanese authorities.

(d) Subject to the provisions of paragraph 3 (c), the activities outside the facilities and areas of military police of the United States armed forces shall be limited to the extent necessary for maintaining order and discipline of and arresting members of the United States armed forces, the civilian component, and their dependents.

(e) The authorities of the United States and Japan shall cooperate in making available witnesses and evidence for criminal investigations and other criminal proceedings in their respective tribunals and shall assist each other in the making of investigations. In the event of a criminal contempt, perjury, or an obstruction of justice before a tribunal which does not have criminal jurisdiction

over the individual committing the offense, he shall be tried by a tribunal which has jurisdiction over him as if he had committed the offense before it.

(f) The United States armed forces shall have the exclusive right of removing from Japan members of the United States armed forces, the civilian component, and their dependents. The United States will give sympathetic consideration to a request by the Government of Japan for the removal of any such person for good cause.

(g) Japanese authorities shall have no right of search or seizure, with respect to any persons or property, within facilities and areas in use by the United States armed forces, or with respect to property of the United States armed forces wherever situated. At the request of the Japanese authorities, the United States authorities undertake, within the limits of their authority, to make such search and seizure and inform the Japanese authorities as to the results thereof. In the event of a judgment concerning such property, except property owned or utilized by the United States Government, the United States will turn over such property to the Japanese authorities for disposition in accordance with the judgment. Japanese authorities shall have no right of search or seizure outside facilities and areas in use by the United States armed forces with respect to the persons or property of members of the United States armed forces, the civilian component, or their dependents, except as to such persons as may be arrested in accordance with paragraph 3 (a) of this Article, and except as to cases where such search is required for the purpose of arresting offenders under the jurisdiction of Japan.

(h) A death sentence shall not be carried out in Japan by the United States armed forces if the legislation of Japan does not provide for such punishment in a similar case.

4. The United States undertakes that the United States service courts and authorities shall be willing and able to try and, on conviction, to punish all offenses against the laws of Japan which members of the United States armed forces, civilian component, and their dependents may be alleged on sufficient evidence to have committed in Japan, and to investigate and deal appropriately with any alleged offense committed by members of the United States armed forces, the civilian component, and their dependents, which may be brought to their notice by Japanese authorities or which they may find to have taken place. The United States further undertakes to notify the Japanese authorities of the disposition made by United States service courts of all cases arising under this paragraph. The United States shall give sympathetic consideration to a request from Japanese authorities for a waiver of its jurisdiction in cases arising under this paragraph where the Japanese Government considers such waiver to be of particular importance. Upon such waiver, Japan may exercise its own jurisdiction.

5. In the event the option referred to in paragraph 1 is not exercised by Japan, the jurisdiction provided for in paragraph 2 and the following paragraphs shall continue in effect. In the event the said North Atlantic Treaty Agreement has not come into effect within one year from the effective date of

this Agreement, the United States will, at the request of the Japanese Government, reconsider the subject of jurisdiction over offenses committed in Japan by members of the United States armed forces, the civilian component, and their dependents.

ARTICLE XVIII. 1. Each party waives all its claims against the other party for injury or death suffered in Japan by a member of its armed forces, or a civilian governmental employee, while such member or employee was engaged in the performance of his official duties in cases where such injury or death was caused by a member of the armed forces, or a civilian employee of the other party acting in the performance of his official duties.

2. Each party waives all its claims against the other party for damage to any property in Japan owned by it, if such damage was caused by a member of the armed forces or a civilian governmental employee of the other party in the performance of his official duties.

3. Claims, other than contractual, arising out of acts or omissions of members of, or employees of the United States armed forces in the performance of official duty or out of any other act, omission or occurrence for which the United States armed forces is legally responsible, arising incident to non-combat activities and causing injury, death, or property damage in Japan to third parties shall be dealt with by Japan in accordance with the following provisions:

(a) Claims shall be filed within one year from the date on which they arise and shall be considered and settled or adjudicated in accordance with the laws and regulations of Japan with respect to claims arising from the activities of its own employees.

(b) Japan may settle any such claims, and payment of the amount agreed upon or determined by adjudication shall be made by Japan in yen.

(c) Such payment, whether made pursuant to a settlement or to adjudication of the case by a competent tribunal of Japan, or the final adjudication by such a tribunal denying payment, shall be binding and conclusive.

(d) The cost incurred in satisfying claims pursuant to the preceding subparagraphs shall be shared on terms to be agreed by the two Governments.

(e) In accordance with procedures to be established, a statement of all claims approved or disapproved by Japan pursuant to this paragraph, together with the findings in each case, and a statement of the sums paid by Japan, shall be sent to the United States periodically, with a request for reimbursement of the share to be paid by the United States. Such reimbursement shall be made within the shortest possible time in yen.

4. Each party shall have the primary right, in the execution of the foregoing paragraphs, to determine whether its personnel were engaged in the performance of official duty. Such determination shall be made as soon as possible after the arising of the claim concerned. When the other party disagrees with the results of such determination, that party may bring the matter before the Joint Committee for consultation under the provisions of Article XXVI of this Agreement.

5. Claims against members of or employees of the United States armed forces arising out of tortious acts or omissions in Japan not done in the performance of official duty shall be dealt with in the following manner:

(a) The Japanese authorities shall consider the claim and assess compensation to the claimant in a fair and just manner, taking into account all the circumstances of the case, including the conduct of the injured person, and shall prepare a report on the matter.

(b) The report shall be delivered to the United States authorities, who shall then decide without delay whether they will offer an *ex gratia* payment, and if so, of what amount.

(c) If an offer of *ex gratia* payment is made, and accepted by the claimant in full satisfaction of his claim, the United States authorities shall make the payment themselves and inform the Japanese authorities of their decision and of the sum paid.

(d) Nothing in this paragraph shall affect the jurisdiction of the Japanese courts to entertain an action against a member or employee of the United States armed forces, unless and until there has been payment in full satisfaction of the claim.

6. (a) Members of and civilian employees of the United States armed forces, excluding those employees who have only Japanese nationality, shall not be subject to suit in Japan with respect to claims specified in paragraph 3, but shall be subject to the civil jurisdiction of Japanese courts with respect to all other types of cases.

(b) In case any private movable property, excluding that in use by the United States armed forces, which is subject to compulsory execution under Japanese law, is within the facilities and areas in use by the United States armed forces, the United States authorities shall upon the request of Japanese courts, possess and turn over such property to the Japanese authorities.

(c) The United States authorities shall cooperate with the Japanese authorities in making available witnesses and evidence for civil proceedings in Japanese tribunals.

7. Disputes arising out of contracts concerning the procurements of materials, supplies, equipment, services, and labor by or for the United States armed forces, which are not resolved by the parties to the contract concerned, may be submitted to the Joint Committee for conciliation, provided that the provisions of this paragraph shall not prejudice any right which the parties to the contract may have to file a civil suit.

ARTICLE XIX. 1. Members of the United States armed forces, the civilian component, and their dependents, shall be subject to the foreign exchange controls of the Japanese Government.

2. The preceding paragraph shall not be construed to preclude the transmission into or outside of Japan of United States dollars or dollar instruments representing the official funds of the United States or realized as a result of service or employment in connection with this Agreement by members of the United States armed

forces and the civilian component, or realized by such persons and their dependents from sources outside of Japan.

3. The United States authorities shall take suitable measures to preclude the abuse of the privileges stipulated in the preceding paragraph or circumvention of the Japanese foreign exchange controls.

ARTICLE XX. 1. (a) United States military payment certificates denominated in dollars may be used by persons authorized by the United States for internal transactions within the facilities and areas in use by the United States armed forces. The United States Government will take appropriate action to insure that authorized personnel are prohibited from engaging in transactions involving military payment certificates except as authorized by United States regulations. The Japanese Government will take necessary action to prohibit unauthorized persons from engaging in transactions involving military payment certificates and with the aid of United States authorities will undertake to apprehend and punish any person or persons under its jurisdiction involved in the counterfeiting or uttering of counterfeit military payment certificates.

(b) It is agreed that the United States authorities will apprehend and punish members of the United States armed forces, the civilian component, or their dependents, who tender military payment certificates to unauthorized persons and that no obligation will be due to such unauthorized persons or to the Japanese Government or its agencies from the United States or any of its agencies as a result of any unauthorized use of military payment certificates within Japan.

2. In order to exercise control of military payment certificates the United States shall have the right to designate certain American financial institutions to maintain and operate, under United States supervision, facilities for the use of persons authorized by the United States to use military payment certificates. Institutions authorized to maintain military banking facilities will establish and maintain such facilities physically separated from their Japanese commercial banking business, with personnel whose sole duty is to maintain and operate such facilities. Such facilities shall be permitted to maintain United States currency bank accounts and to perform all financial transactions in connection therewith including receipt and remission of funds to the extent provided by Article XIX, paragraph 2, of this Agreement.

ARTICLE XXI. The United States shall have the right to establish and operate, within the facilities and areas in use by the United States armed forces, United States military post offices for the use of members of the United States armed forces, the civilian component, and their dependents, for the transmission of mail between the United States military post offices in Japan and between such military post offices and other United States post offices.

ARTICLE XXII. The United States shall have the right to enroll and train all eligible United States citizens, residing in Japan, in the reserve organizations of the armed forces of the United States, except that the prior consent of the Japanese Government shall be obtained in the case of persons employed by the Japanese Government.

ARTICLE XXIII. The United States and Japan will cooperate in taking such

steps as may from time to time be necessary to ensure the security of the United States armed forces, the members thereof, the civilian component, their dependents, and their property. The Japanese Government agrees to seek such legislation and to take such other action as may be necessary to ensure the adequate security and protection within its territory of installations, equipment, property, records and official information of the United States, and for the punishment of offenders under the applicable laws of Japan.

ARTICLE XXIV. In the event of hostilities, or imminently threatened hostilities, in the Japan area, the Governments of the United States and Japan shall immediately consult together with a view to taking necessary joint measures for the defense of that area and to carrying out the purposes of Article I of the Security Treaty.

ARTICLE XXV. 1. It is agreed that the United States will bear for the duration of this Agreement without cost to Japan all expenditures incident to the maintenance of the United States armed forces in Japan except those to be borne by Japan as provided in paragraph 2.

2. It is agreed that Japan will:

(a) Furnish for the duration of this Agreement without cost to the United States and make compensation where appropriate to the owners and suppliers thereof all facilities, areas and rights of way, including facilities and areas jointly used such as those at airfields and ports, as provided in Articles II and III.

(b) Make available without cost to the United States, until the effective date of any new arrangement reached as a result of periodic reexamination, an amount of Japanese currency equivalent to \$155 million per annum for the purpose of procurement by the United States of transportation and other requisite services and supplies in Japan. The rate of exchange at which yen payments will be credited shall be the official par value, or that rate considered most favorable by the United States which on the day of payment is available to any party, authorized by the Japanese Government or used in any transaction with any party by the Japanese Government or its agencies or by Japanese banks authorized to deal in foreign exchange, and which, if both countries have agreed par values with the International Monetary Fund, is not prohibited by the Articles of Agreement of the Fund.

3. It is agreed that arrangements will be effected between the Governments of the United States and Japan for accounting applicable to financial transactions arising out of this Agreement.

ARTICLE XXVI. 1. A Joint Committee shall be established as the means for consultation between the United States and Japan on all matters requiring mutual consultation regarding the implementation of this Agreement. In particular, the Joint Committee shall serve as the means for consultation in determining the facilities and areas in Japan which are required for the use of the United States in carrying out the purposes stated in Article I of the Security Treaty.

2. The Joint Committee shall be composed of a representative of the United States and of Japan, each of whom shall have one or more deputies and a staff. The Joint Committee shall determine its own procedures, and arrange for such

auxiliary organs and administrative services as may be required. The Joint Committee shall be so organized that it may meet immediately at any time at the request of the representative of either the United States or Japan.

3. If the Joint Committee is unable to resolve any matter, it shall refer that matter to the respective Governments for further consideration through appropriate channels.

ARTICLE XXVII. 1. This Agreement shall come into force on the date on which the Security Treaty between the United States and Japan enters into force.

2. Each party to this Agreement undertakes to seek from its legislature necessary budgetary and legislative action with respect to provisions of this Agreement which require such action for their execution.

ARTICLE XXVIII. Either party may at any time request the revision of any Article of this Agreement, in which case the two Governments shall enter into negotiation through appropriate channels.

ARTICLE XXIX. This Agreement, and agreed revisions thereof, shall remain in force while the Security Treaty remains in force unless earlier terminated by agreement between the parties.

In witness whereof the representatives of the two Governments, duly authorized for the purpose, have signed this Agreement.

DONE at Tokyo, in duplicate, in the English and Japanese languages, both texts authentic, this twenty-eighth day of February, 1952.

(C) PROTOCOL TO AMEND ARTICLE XVII OF THE ADMINISTRATIVE AGREEMENT UNDER ARTICLE III OF THE SECURITY TREATY BETWEEN THE UNITED STATES AND JAPAN, TOKYO, 29 SEPTEMBER 1953

This Protocol is an agreement on the exercise of jurisdiction over offenses involving members of the United States armed forces in Japan. It wholly replaces the original provisions of Article XVII of the Administrative Agreement of 28 February 1952, which contained temporary arrangements pending the coming into force of the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces of 19 June 1951. The NATO Status of Forces Agreement, on which the terms of the present Protocol are explicitly modeled, came into force on 23 August 1953.

The present Protocol came into force on 28 October 1953, as provided in its final clauses. The text, which includes that of official Minutes on certain paragraphs, is from U. S. Department of State Press Release No. 525 of 28 September 1953.

Whereas the "Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces", signed at London on June 19, 1951, came into force on August 23, 1953 with respect to the United States of America; and

Whereas Japan desires to conclude with the United States of America an agreement on criminal jurisdiction similar to the corresponding provisions of the said Agreement in accordance with the provisions of paragraph 1 of Article XVII of the Administrative Agreement, signed at Tokyo on February 28, 1952, under Article III of the Security Treaty between Japan and the United States of America;

Now the Governments of Japan and the United States of America have agreed

that the existing provisions of Article XVII of the said Administrative Agreement shall be abrogated and the following provisions shall be substituted:

ARTICLE XVII. 1. Subject to the provisions of this Article,

(a) the military authorities of the United States shall have the right to exercise within Japan all criminal and disciplinary jurisdiction conferred on them by the law of the United States over all persons subject to the military law of the United States;

(b) the authorities of Japan shall have jurisdiction over the members of the United States armed forces, the civilian component, and their dependents with respect to offenses committed within the territory of Japan and punishable by the law of Japan.

2. (a) The military authorities of the United States shall have the right to exercise exclusive jurisdiction over persons subject to the military law of the United States with respect to offenses, including offenses relating to its security, punishable by the law of the United States, but not by the law of Japan.

(b) The authorities of Japan shall have the right to exercise exclusive jurisdiction over members of the United States armed forces, the civilian component, and their dependents with respect to offenses, including offenses relating to the security of Japan, punishable by its law but not by the law of the United States.

(c) For the purposes of this paragraph and of paragraph 3 of this Article a security offense against a State shall include

(i) treason against the State;

(ii) sabotage, espionage or violation of any law relating to official secrets of that State, or secrets relating to the national defense of that State.

3. In cases where the right to exercise jurisdiction is concurrent the following rules shall apply:

(a) The military authorities of the United States shall have the primary right to exercise jurisdiction over members of the United States armed forces and the civilian component in relation to

(i) offenses solely against the property or security of the United States, or offenses solely against the person or property of another member of the United States armed forces or the civilian component or of a dependent;

(ii) offenses arising out of any act or omission done in the performance of official duty.

(b) In the case of any other offense the authorities of Japan shall have the primary right to exercise jurisdiction.

(c) If the State having the primary right decides not to exercise jurisdiction, it shall notify the authorities of the other State as soon as practicable. The authorities of the State having the primary right shall give sympathetic consideration to a request from the authorities of the other State for a waiver of its right in cases where that other State considers such waiver to be of particular importance.

4. The foregoing provisions of this Article shall not imply any right for the military authorities of the United States to exercise jurisdiction over persons who are nationals of or ordinarily resident in Japan, unless they are members of the United States armed forces.

5. (a) The authorities of Japan and the military authorities of the United States shall assist each other in the arrest of members of the United States armed forces, the civilian component, or their dependents in the territory of Japan and in handing them over to the authority which is to exercise jurisdiction in accordance with the above provisions.

(b) The authorities of Japan shall notify promptly the military authorities of the United States of the arrest of any member of the United States armed forces, the civilian component, or a dependent.

(c) The custody of an accused member of the United States armed forces or the civilian component over whom Japan is to exercise jurisdiction shall, if he is in the hands of the United States, remain with the United States until he is charged by Japan.

6. (a) The authorities of Japan and the military authorities of the United States shall assist each other in the carrying out of all necessary investigations into offenses, and in the collection and production of evidence, including the seizure and, in proper cases, the handing over of objects connected with an offense. The handing over of such objects may, however, be made subject to their return within the time specified by the authority delivering them.

(b) The authorities of Japan and the military authorities of the United States shall notify each other of the disposition of all cases in which there are concurrent rights to exercise jurisdiction.

7. (a) A death sentence shall not be carried out in Japan by the military authorities of the United States if the legislation of Japan does not provide for such punishment in a similar case.

(b) The authorities of Japan shall give sympathetic consideration to a request from the military authorities of the United States for assistance in carrying out a sentence of imprisonment pronounced by the military authorities of the United States under the provisions of this Article within the territory of Japan.

8. Where an accused has been tried in accordance with the provisions of this Article either by the authorities of Japan or by the military authorities of the United States and has been acquitted, or has been convicted and is serving, or has served, his sentence or has been pardoned, he may not be tried again for the same offense within the territory of Japan by the authorities of the other State. However, nothing in this paragraph shall prevent the military authorities of the United States from trying a member of its armed forces for any violation of rules of discipline arising from an act or omission which constituted an offense for which he was tried by the authorities of Japan.

9. Whenever a member of the United States armed forces, the civilian component or a dependent is prosecuted under the jurisdiction of Japan he shall be entitled:

(a) to a prompt and speedy trial;

(b) to be informed, in advance of trial, of the specific charge or charges made against him;

(c) to be confronted with the witness against him;

(d) to have compulsory process for obtaining witnesses in his favor, if they are within the jurisdiction of Japan;

(e) to have legal representation of his own choice for his defense or to have free or assisted legal representation under the conditions prevailing for the time being in Japan;

(f) if he considers it necessary, to have the services of a component interpreter; and

(g) to communicate with a representative of the government of the United States and to have such a representative present at his trial.

10. (a) Regularly constituted military units or formations of the United States armed forces shall have the right to police any facilities or areas which they use under Article 2 of this Agreement. The military police of such forces may take all appropriate measures to ensure the maintenance of order and security within such facilities and areas.

(b) Outside these facilities and areas, such military police shall be employed only subject to arrangements with the authorities of Japan and in liaison with those authorities, and in so far as such employment is necessary to maintain discipline and order among the members of the United States armed forces.

11. In the event of hostilities to which the provisions of Article XXIV of this Agreement apply either Japan or the United States shall have the right, by giving sixty days' notice to the other, to suspend the application of any of the provisions of this Article. If this right is exercised, Japan and the United States shall immediately consult with a view to agreeing on suitable provisions to replace the provisions suspended.

The present Protocol shall come into effect thirty days after the date of its signing.

In witness whereof the representatives of the two Governments, duly authorized for the purpose, have signed the present Protocol.

DONE at Tokyo, in duplicate in the Japanese and English languages, both texts being equally authentic, this twenty-ninth day of September 1953.

For the Government of Japan:

KATSUO OKAZAKI, Foreign Minister of Japan

TPAKESHI INUKAI, Justice Minister of Japan

For the Government of the United States of America:

JOHN M. ALLISON, Ambassador of the United States of America

OFFICIAL MINUTES REGARDING PROTOCOL TO AMEND ARTICLE XVII OF THE ADMINISTRATIVE AGREEMENT

Re paragraph 1 (a) and paragraph 2 (a):

The scope of persons subject to the military law of the United States shall be communicated, through the Joint Committee, to the Government of Japan by the Government of the United States.

Re paragraph 2 (c):

Both Governments shall inform each other of the details of all the security offenses mentioned in this subparagraph and the provisions governing such offenses in the existing laws of their respective countries.

Re paragraph 3(a) (ii):

Where a member of the United States Armed Forces or the civilian component is charged with an offense, a certificate issued by or on behalf of his commanding officer stating that the alleged offense, if committed by him, arose out of an act or omission done in the performance of official duty, shall in any judicial proceedings, be sufficient evidence of the fact unless the contrary is proved. The above statement shall not be interpreted to prejudice in any way Article 318 of the Japanese Code of Criminal Procedure.

Re paragraph 3 (c):

1. Mutual procedures relating to waivers of the primary right to exercise jurisdiction shall be determined by the Joint Committee.

2. Trials of cases in which the Japanese authorities have waived the primary right to exercise jurisdiction, and trials of cases involving offenses described in paragraph 3 (a) (ii) committed against the state or nationals of Japan shall be held promptly in Japan within a reasonable distance from the place where the offenses are alleged to have taken place unless other arrangements are mutually agreed. Representatives of the Japanese authorities may be present at such trials.

Re paragraph 4:

Dual nationals, United States and Japanese, who are subject to the military law of the United States and are brought to Japan by the United States shall not be considered as nationals of Japan, but shall be considered as United States nationals for the purposes of this paragraph.

Re paragraph 5:

1. In case the Japanese authorities have arrested an offender who is a member of the United States armed forces, the civilian component, or a dependent subject to the military law of the United States with respect to a case over which Japan has the primary right to exercise jurisdiction, the Japanese authorities will, unless they deem that there is adequate cause and necessity to retain such offender, release him to the custody of the United States military authorities provided that he shall, on request, be made available to the Japanese authorities, if such be the condition of his release. The United States authorities shall on request, transfer his custody to the Japanese authorities at the time he is indicted by the latter.

2. The United States military authorities shall promptly notify the authorities of Japan of the arrest of any member of the United States armed forces, the civilian component or a dependent in any case in which Japan has the primary right to exercise jurisdiction.

Re paragraph 9:

1. The rights enumerated in items (a) through (e) of this paragraph are guaranteed to all persons on trial in Japanese courts by the provisions of the Jap-

anese Constitution. In addition to these rights, a member of the United States armed forces, the civilian component or a dependent who is prosecuted under the jurisdiction of Japan shall have such other rights as are guaranteed under the laws of Japan to all persons on trial in Japanese courts. Such additional rights include the following which are guaranteed under the Japanese Constitution.

(a) He shall not be arrested or detained without being at once informed of the charge against him or without the immediate privilege of counsel; nor shall he be detained without adequate cause; and upon demand of any person such cause must be immediately shown in open court in his presence and the presence of his counsel;

(b) He shall enjoy the right to a public trial by an impartial tribunal;

(c) He shall not be compelled to testify against himself;

(d) He shall be permitted full opportunity to examine all witnesses;

(e) No cruel punishments shall be imposed upon him.

2. The United States authorities shall have the right upon request to have access at any time to members of the United States armed forces, the civilian component, or their dependents who are confined or detained under the Japanese authority.

Nothing in the provisions of paragraph 9 (g) concerning the presence of a representative of the United States Government at the trial of a member of the United States armed forces, the civilian component or a dependent prosecuted under the jurisdiction of Japan, shall be so construed as to prejudice the provisions of the Japanese constitution with respect to public trials.

Re paragraphs 10 (a) and 10 (b):

1. The United States military authorities will normally make all arrests within facilities and areas in use by and guarded under the authority of the United States armed forces. This shall not preclude the Japanese authorities from making arrests within facilities and areas in cases where the competent authorities of the United States armed forces have given consent, or in cases of pursuit of a flagrant offender who has committed a serious crime.

Where persons whose arrest is desired by the Japanese authorities and who are not subject to the jurisdiction of the United States armed forces are within facilities and areas in use by the United States armed forces, the United States military authorities will undertake, upon request, to arrest such persons. All persons arrested by the United States military authorities, who are not subject to the jurisdiction of the United States armed forces, shall immediately be turned over to the Japanese authorities.

The United States military authorities may, under due process of law, arrest in the vicinity of a facility or area any person in the commission or attempted commission of an offense against the security of that facility or areas. Any such person not subject to the jurisdiction of the United States armed forces shall immediately be turned over to the Japanese authorities.

2. The Japanese authorities will normally not exercise the right of search, seizure or inspection with respect to any persons or property within facilities

and areas in use by and guarded under the authority of the United States armed forces or with respect to property of the United States armed forces wherever situated, except in cases where the competent authorities of the United States armed forces consent to such search, seizure or inspection by the Japanese authorities of such persons or property.

Where search, seizure or inspection with respect to persons or property within facilities and areas in use by the United States armed forces or with respect to property of the United States armed forces in Japan is desired by the Japanese authorities, the United States military authorities will undertake, upon request, to make such search, seizure, or inspection. In the event of a judgment concerning such property, except property owned or utilized by the United States Government or its instrumentalities, the United States will turn over such property to the Japanese authorities for disposition in accordance with the judgment.

Re application of the Protocol:

The provisions of the Protocol shall not apply to any offenses committed before the coming into effect of the Protocol. Such cases shall be governed by the provisions of Article XVII of the Administrative Agreement as it existed prior to the coming into effect of the Protocol.

III. EUROPEAN UNIONS

INTRODUCTORY NOTE. In the period since the second World War, a number of European nations have entered into agreements setting up international organizations intended to bring about a greater degree of economic, military, and political integration of the continent. These organizations differ somewhat in membership, structure and sphere of activity; those concerned with the maintenance of international peace and security may be considered as regional arrangements under Articles 52 through 54 of the Charter of the United Nations. Since the effort to unify Europe is still continuing, several of the agreements are being superseded in whole or part by later ones, and there is an apparent overlapping of functions and a multiplication of ministerial councils, which presumably will be reduced in the course of time.

Particulars of the principal organizations and the agreements establishing them are given on the following pages, in a roughly chronological order. The texts of the Treaty constituting the European Coal and Steel Community and of certain recent amendments to the Statute of the Council of Europe are supplied here. The North Atlantic Treaty and the European Defense Community treaty are reprinted earlier in this volume, where they are treated more fully. The Brussels Treaty of 1948 and the Statute of the Council of Europe were reprinted in *International Law Documents 1948-1949* (pp. 46 and 57 respectively). Other texts are not included. The European Defense Community and the European Political Community require further action by the governments concerned before they come into existence.

A. THE BENELUX UNION, 1944 AND 1947

An "Economic Union" (actually a customs union) has existed between Belgium and the Grand Duchy of Luxembourg since 1921. In the Ouchy Convention, signed at Geneva on 18 July 1932, Belgium, Luxembourg, and the Netherlands agreed not to increase existing duties or apply new duties on imports from each other, to reduce duties levied on goods exchanged between themselves by ten per cent, and to make further ten per cent reductions annually, up to a total of fifty per cent. This system was never brought into effect, due to objections that it violated most-favored-nation agreements with other countries. On 28 May 1937, the same countries together with Norway, Denmark, Sweden, and Finland (i. e., the parties to the Oslo Convention of Economic Rapprochement, of 22 December 1930) signed a less extreme convention at The Hague, but this also collapsed after a year of operation.

On 5 September 1944, the Governments-in-exile of the three countries signed a Customs Union Agreement in London, which called for the elimination of existing tariffs between the signatories and for levying common tariffs on imports from outside the Union. It was hoped to create in this way an economic unit large enough to compete successfully in the foreign trade market after the war. Further negotiations were held at The Hague in April 1946, and on 14 March 1947 a Protocol amending and interpreting the Customs Union Agreement of 1944 was signed at The Hague. This Protocol carried as annexes a revised text of the Agreement, a tariff schedule, and the Statute of the General Secretariat of the Councils of the Customs Union. Ratifications were exchanged on 29 October 1947, and the Union entered into force on 1 January 1948. A second Protocol, containing amendments to the tariff schedule, was signed on 22 December 1947, and came into force provisionally on 1 January 1948 and definitively with the exchange of ratifications on 1 July 1948 (32 United Nations Treaty Series 143). On 13 April 1948 the Governments of the Netherlands and Belgium signed at The Hague a convention on the merging of customs operations at the Netherlands-Belgium frontier which came into force on 8 May 1948 (32 United Nations Treaty Series 153).

The 1947 Agreement provided for the eventual transformation of the Customs Union into a full Economic Union of Belgium, Luxembourg, and the Netherlands, in which persons, goods, and capital would circulate freely within the area, economic, financial, and social policies would be coordinated, and the Benelux Union rather than the member States would conduct all foreign relations involving economic, financial, and social matters. A "pre-Union" period was scheduled to begin on 1 July 1949, during which the obstacles to an integrated economy which were not removed by the Customs Union, such as foreign exchange controls, quantitative restrictions imposed by the dollar shortage, the need to adjust taxes (especially excise duties upon goods originating in partner countries), and the necessity for general coordination of the economic policies of the members, would gradually be overcome. Although it was agreed in a protocol of October 1949 that the period of full union would begin on 1 July 1950, delays have occurred, and in the fall of 1953 the members remain at the pre-Union stage.

Over 90% of the trade between the Belgo-Luxembourg Economic Union and the Netherlands has been freed; a protocol which came into effect in January 1951 provided for the gradual liberalization of agricultural trade. During 1951 both Belgium and the Netherlands enacted legislation adopting uniform excise and transit charges for the area. The overseas possessions of Belgium and the Netherlands do not form part of the Union.

Progress toward full union is made through conferences of cabinet ministers of the member States, held from two to four times a year, at which the reports of ministerial committees are heard and executive agreements are concluded. In addition to these conferences, the Benelux Union operates through several administrative bodies: a Council for Economic Union, which suggests and coordinates new measures; an Administrative Council on Customs Duties, which is charged with unifying laws and regulations in that field, and is assisted by a Commission for Customs Disputes with the power to make binding decisions when requested by the competent ministers; and a Commercial Agreements Council, which coordinates relations with outside countries. All these councils are composed of three Netherlands delegates and three from the Belgo-Luxembourg Economic Union. There is also a Permanent Benelux Commission, which handles problems arising between ministerial meetings, and a General Secretariat.

Other European projects for customs unions have not been carried to completion. Denmark, Norway, and Sweden held brief negotiations in late 1949. On 13 September 1947, France and Italy declared their intention of studying the basis for a customs union; the report of a joint study commission was adopted in a Protocol signed at Turin on 20 March 1948, and a treaty looking toward an eventual customs and economic union was signed in Paris on 26 March 1949, but is not in force. Customs unions have existed between Italy and the Republic of San Marino since 1862, between France and the Principality of Monaco since 1865, and between Switzerland and the Principality of Liechtenstein since 1924.

The text of the 1947 Benelux Protocol and annexed Agreement is in 9 Hudson, *International Legislation*, p. 135. For English versions of the 1944 and 1947 texts, see Kohr, *Customs Unions* (1949), pp. 41-47. For a bibliography of customs unions and a list of documents, see Viner, *The Customs Union Issue* (1950).

B. UNITED NATIONS ECONOMIC COMMISSION FOR EUROPE (ECE), 28 MARCH 1947

This is a United Nations body, which reports annually to the United Nations Economic and Social Council (ECOSOC). It was created to facilitate the reconstruction of areas devastated by the war and to provide machinery by which European governments could study and take concerted action on post-war economic problems. The Commission was set up by the Council on 28 March 1947, following a recommendation in Resolution 46 (I) of the U. N. General Assembly, 11 December 1946, and succeeded the Council's Temporary Sub-Commission on Economic Reconstruction of Devastated Areas, which had been set up in June 1946. At its first and second meetings, the Commission also took over the work of three European inter-governmental agencies: the European Coal Organization (ECO), the Emergency Economic

Committee for Europe (EECE), and the European Central Inland Transport Organization (ECITO).

The members of the Commission are the European members of the United Nations, and the United States of America. Unlike most other Commissions of the Economic and Social Council, the Commission's members are Governments, not representatives nominated by Governments and approved by the Council. The privilege of participation in a consultative capacity has been extended to other European governments not members of the United Nations (but excluding Spain), and occasionally to certain non-European members. Such consulting members now possess voting rights in the committees of the Commission. The Commission meets as a whole once a year at the United Nations headquarters in Geneva. It has its own rules of procedure, and may make recommendations directly to members, consulting members, inter-governmental organizations, or to Specialized Agencies of the United Nations.

The work of the Commission is carried on primarily through its committees, technical sub-committees, and its secretariat, which is an integral part of the United Nations Secretariat. It consists in collecting, studying, and publishing economic data, and of making recommendations to governments in particular fields. Committees have been set up for agricultural problems, coal, electric power, industry and materials, inland transportation, manpower, steel, timber, and the development of trade; examples of action taken are the allocation of coal, standardization of parts, and arrangements for return and exchange of rolling stock. The Commission publishes an annual *Economic Survey of Europe*, several other periodicals, and special studies from time to time.

Two other Regional Commissions of a similar nature have been set up by the Economic and Social Council: the Economic Commission for Asia and the Far East (ECAFE), also on 28 March 1947, and the Economic Commission for Latin America (ECLA), established by the Council's Resolution 106 (VI) on 25 February 1948. The Commission cooperates with these two bodies and (informally) with the Organization for European Economic Cooperation.

C. ORGANIZATION FOR EUROPEAN ECONOMIC COOPERATION (OEEC), 16 APRIL 1948, AND EUROPEAN PAYMENTS UNION (EPU), 19 SEPTEMBER 1950

These organizations were called into being, after serious setbacks in European post-war economic recovery during the winter of 1946-1947, to make United States aid more effective through a coordination of the efforts of European countries. On 5 June 1947, the Secretary of State of the United States (Marshall), in a speech delivered at Harvard University, recognized that Europe required substantial additional economic assistance and invited European nations to agree upon a joint program (16 Department of State Bulletin 1159). On 12 July, a Conference of European Economic Cooperation met at Paris at the invitation of the Foreign Ministers of France and the United Kingdom, to prepare a report for presentation to Mr. Marshall. Delegates were present from Austria, Belgium, Denmark, France, Greece, Iceland, Ireland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Sweden, Switzerland, Turkey, and the United Kingdom. Efforts to associate the Soviet Government with the project had failed at a conference of ministers two weeks before. Bulgaria, Czechoslovakia, Finland, Hungary, Poland, Rumania, and Yugoslavia decided not to take part. Spain was not invited to send delegates.

This conference set up a Committee of European Economic Cooperation, which by 22 September 1947 had submitted a report on the prospective requirements and resources of the European economy for the period 1948-1951, incorporating information for the Occupied Zones of (Western) Germany as well as for the sixteen signatories, and presenting proposals for a European recovery program (U. S. Department of State Publications 2930 and 2952). In this report the Committee stated that if means for carrying out the program were made available, a joint organization to review its progress would be necessary. In a second session

held in Paris during March and April 1948, the Committee prepared a Convention for European Economic Cooperation, with a number of auxiliary documents including a supplementary protocol on the legal capacity, privileges, and immunities of the organization established by the Convention. These instruments (texts in U. S. Department of State Publication 3145) were signed on 16 April 1948, immediately after passage of the U. S. European Recovery Act of 1948, and came into force on 28 July 1948, having been put into provisional operation upon signature. By 20 October 1949 all signatories had deposited ratifications. The present membership of OEEC includes the Federal Republic of Germany and the Anglo-American Zone of the Free Territory of Trieste in addition to the sixteen governments which signed the 1947 Report. Since 2 June 1950 the United States and Canada have been informally associated with the Organization.

The seat of the Organization is in Paris. Its policy-making body is the Council (of cabinet ministers or their deputies), which meets monthly, and is assisted by twenty technical committees on specific commodities or aspects of economic cooperation, an Executive Committee of seven members elected by the Council, and a General Secretariat. Its work, starting with the preparation and review of recovery programs, has also extended to the study of problems of intra-European trade, economic integration, coordination of investments, financial stability, the dollar gap, productivity and manpower, raw materials, and similar questions. OEEC maintains close relations with the Council of Europe and prepares a report for each session of that body's Consultative Assembly.

The European Payments Union (EPU), which was developed by and operates under OEEC, was set up by an Agreement signed by all OEEC members on 19 September 1950 (British Parliamentary Papers, Cmd. 8064); a Protocol of Provisional Application, signed on the same date, provided that the Agreement should be applied provisionally as if effective from 1 July 1950. The Agreement was amended on 4 August 1951, 11 July 1952, and 30 June 1953 by supplementary protocols (British Parliamentary Papers, Cmd. 8372, Cmd. 8644, and Cmd. 8930).

EPU supersedes a series of annual Agreements for Intra-European Payments and Compensations. It provides an automatic multilateral system by which surpluses and deficits of each member state are offset at monthly intervals with all other members, and a single resulting balance is determined. The Managing Board of EPU, which is responsible to the OEEC Council for the execution of the Agreement, makes decisions concerning the operation of the EPU fund, and furnishes guidance to members on commercial and financial policy.

D. "WESTERN UNION" (Brussels Pact), 17 March 1948

A Treaty of Alliance and Mutual Assistance was signed at Dunkirk by the United Kingdom and France on 4 March 1947 (ratifications exchanged 8 September 1947). For the text, see British Treaty Series No. 73 (1953), British Parliamentary Papers, Cmd. 7217.

On 22 January 1948, the Prime Minister of the United Kingdom (Bevin), addressing the House of Commons on foreign policy, called for a consolidation of Western Europe (446 H. C. Deb. 5 s., p. 396). On 17 March 1948, A Treaty of Economic, Social and Cultural Collaboration and Collective Self-Defense was signed at Brussels by representatives of the United Kingdom, France, Belgium, Luxembourg, and the Netherlands, which provided for a permanent consultative machinery for joint defense against armed aggression in Europe. The Treaty, which was concluded for a fifty-year period, entered into force on 25 August 1948 with the deposit of the fifth instrument of ratification. The phrase "Western Union," which does not appear in the text, has been generally applied to the association defined by this treaty. A Consultative Council, composed of the Foreign Ministers of the five signatories, was created as the principal organ of the Union; it first met on 17 April 1948. The Council established in London a Permanent Commission of diplomatic representatives, with a secretariat, a Permanent Military Committee for common defense problems, an Economic Committee, and a Commander-in-Chief's Committee. Other subordinate committees and boards were later set up.

The Union was a pioneer organization, which has now been almost entirely superseded by others. Economic cooperation never became its concern, as a result of the formation in April 1948 of the Organization for European Economic Cooperation.

By a decision of the Consultative Council on 20 December 1950, the military and defense functions of Western Union were absorbed by the North Atlantic Treaty Organization; the North Atlantic Council established Supreme Headquarters Allied Powers, Europe (SHAPE) in the same month. Social and cultural committees have worked toward cooperation in such fields as social security, public health, industrial safety, civil defense, documentary films, and pharmaceuticals; this has resulted in the conclusion of several agreements between the powers on technical matters. The assembly of the Council of Europe has recommended that the social and cultural functions of Western Union be transferred to the Council of Europe.

The text of the Treaty appears in 19 United Nations Treaty Series, p. 51; the English version was printed in *International Law Documents* 1948-1949, p. 46.

E. COUNCIL OF EUROPE, 5 MAY 1949

In May 1948, a Congress of Europe was convened at The Hague by a group called the International Committee of the Movements for European Unity (European Movement). This meeting recommended the establishment of a European Assembly in which the peoples and parliamentary bodies of Europe would be represented, the organizations already in existence being primarily associations of governments. This proposal was submitted by the French Government to the Brussels Treaty council on 25 October 1948, and a study committee was set up. On 28 January 1949 the Consultative Council decided that such an organization should be established, and Italy, Ireland, Norway, Sweden, and Denmark were invited to participate with the Brussels Treaty powers in final negotiations. On 5 May 1949, the Statute of the Council of Europe was signed at London by the ten powers, and on 3 August 1949 it came into force. By 8 August all signatories had ratified. Turkey and Greece joined on 9 August 1949, Iceland on 7 March 1950, and the Saar on 13 May 1950 as an associate member; the Federal Republic of Germany became an associate member on 13 July 1950 and a full member on 2 May 1951.

The form eventually taken by the organization represents a compromise between the original plan and a British proposal. The organs of the Council include, first, a Committee of Ministers, representing the governments of the member countries and composed of foreign ministers or their representatives; second, a Consultative Assembly of 132 representatives who vote and speak as individuals, chosen as the parliaments of their countries may determine and distributed primarily on the basis of population; and third, a Secretariat. The headquarters of the Council are in Strasbourg. The first meeting of the Assembly took place from 10 August to 8 September 1949. The Assembly has set up seven committees and four special committees, with a standing committee for the period between sessions; there is also a Joint Committee for coordination between the Committee of Ministers and the Assembly. The Committee of Ministers meets twice a year; the Assembly has an annual meeting sometimes divided into two parts. Associate members are represented in the Assembly, but only send an observer to the Committee of Ministers. Recommendations made by a two-thirds majority in the Assembly are transmitted to member governments if they receive approval by the Committee of Ministers. Except in certain circumstances, this approval must be unanimous.

The Council of Europe may consider problems in nearly any field, but matters relating to national defense are specifically excepted in Article 1 of the Statute, being within the jurisdiction of the Brussels Treaty organization and its successors. Economic recommendations are usually forwarded to the Organization of European Economic Cooperation. Because of its structure, the Council of Europe has great importance as a forum of discussion on common European problems.

The text of the Statute appears in 87 United Nations Treaty Series 103, and was published in *International Law Documents* 1948-1949, p. 57. On 27 May 1951, amendments of Articles 23, 25, 27, 34, and 38 of the Statute came into effect in accordance with the provisions

of Article 41 (d). At the same time the Committee of Ministers adopted further statutory texts to be included ultimately in the revised Statute. The texts of the amendments in force are as follows (Council of Europe, Consultative Assembly, Third Ordinary Session, 1951, Recommendations and Resolutions, p. 68):

Article 23 was re-worded as follows:

“(a) The Consultative Assembly may discuss and make Recommendations upon any matter within the aim and scope of the Council of Europe as defined in Chapter I. It shall also discuss and may make recommendations upon any matter referred to it by the Committee of Ministers with a request for its opinion.

(b) The Assembly shall draw up its Agenda in accordance with the provisions of paragraph (a) above. In so doing it shall have regard to the work of other European inter-governmental organisations to which some or all of the Members of the Council are parties.

(c) The President of the Assembly shall decide, in case of doubt, whether any questions raised in the course of the Session is within the Agenda of the Assembly.”

The first sentence in paragraph (a) of Article 23 was replaced by the following text:

“The Consultative Assembly shall consist of Representatives of each Member elected by its Parliament or appointed in such manner as that Parliament shall decide, subject, however, to the right of the Government of each member to make any additional appointments necessary when the Parliament is not in session and has not laid down the procedure to be followed in that case.”

Article 27 was re-worded as follows:

“The conditions under which the Committee of Ministers collectively may be represented in the debates of the Consultative Assembly, or individual Representatives on the Committee or their alternates may address the Assembly, shall be determined by such rules of procedure on this subject as may be drawn up by the Committee after consultation with the Assembly.”

Article 34 was re-worded as follows:

“The Consultative Assembly may be convened in extraordinary Sessions upon the initiative either of the Committee of Ministers or of the President of the Assembly after agreement between them, such agreement also to determine the date and place of the Session.”

The following paragraph (e) was added to Article 38:

“(e) The Secretary-General shall also submit to the Committee of Ministers an estimate of the expenditure to which the implementation of each of the Recommendations presented to the Committee would give rise. Any Resolution the implementation of which requires additional expenditure shall not be considered as adopted by the Committee of Ministers unless the Committee has also approved the corresponding estimates for such additional expenditure.”

On 2 September 1949, in Paris, a General Agreement on Privileges and Immunities of the Council of Europe was signed on behalf of the ten original signatories of the Statute, Turkey, and Greece, this being the agreement contemplated by Article 40 (b) of the Statute. It came into force on 10 September 1952, ratifications having been deposited by Norway, the Netherlands, Sweden, the United Kingdom, Belgium, Italy, and Luxembourg. The text is given below (British Treaty Series No. 34 (1953), Cmd. 8852).

GENERAL AGREEMENT ON PRIVILEGES AND IMMUNITIES OF THE COUNCIL OF EUROPE

The Governments of the Kingdom of Belgium, the Kingdom of Denmark, the French Republic, the Kingdom of Greece, the Irish Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the King-

dom of Norway, the Kingdom of Sweden, the Turkish Republic and the United Kingdom of Great Britain and Northern Ireland;

Whereas under the provisions of Article 40, paragraph (a) of the Statute, the Council of Europe, representatives of Members and the Secretariat, shall enjoy in the territories of its Members such privileges and immunities as are necessary for the exercise of their duties;

Whereas under the provisions of paragraph (b) of the above-mentioned Article the Members of the Council have undertaken to enter into an agreement for the purpose of fulfilling the provisions of the said paragraph;

Whereas in pursuance of the above-mentioned paragraph (b) the Committee of Ministers has recommended to Member Governments the acceptance of the following provisions;

Have agreed as follows:—

PART I.—PERSONALITY, CAPACITY

ARTICLE 1. The Council of Europe shall possess juridical personality. It shall have the capacity to conclude contracts, to acquire and dispose of movable and immovable property and to institute legal proceedings.

In these matters the Secretary-General shall act on behalf of the Council of Europe.

ARTICLE 2. The Secretary-General shall co-operate at all times with the competent authorities of the Members to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse in connection with the privileges, immunities, exemptions and facilities enumerated in the present Agreement.

PART II.—PROPERTY, FUNDS AND ASSETS

ARTICLE 3. The Council, its property and assets, wheresoever located and by whomsoever held, shall enjoy immunity from every form of legal process except in so far as in any particular case the Committee of Ministers has expressly authorised the waiver of this immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution or detention of property.

ARTICLE 4. The buildings and premises of the Council shall be inviolable. Its property and assets, wheresoever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of interference whether by administrative, judicial or legislative action.

ARTICLE 5. The archives of the Council, and in general all documents belonging to it or held by it, shall be inviolable wheresoever located.

ARTICLE 6. Without being restricted by financial controls, regulations or financial moratoria of any kind:—

(a) the Council may hold currency of any kind and operate accounts in any currency;

(b) the Council may freely transfer its funds from one country to another or within any country and convert any currency held by it into any other currency;

(*c*) in exercising its rights under sub-paragraphs (*a*) and (*b*) above, the Council of Europe shall pay due regard to any representations made by the Government of a Member and shall give effect to such representations in so far as it considers this can be done without detriment to the interests of the Council.

ARTICLE 7. The Council, its assets, income and other property shall be exempt:—

(*a*) from all direct taxes; the Council will not, however, claim exemption from rates, taxes or dues which are no more than charges for public utility services;

(*b*) from all customs duties and prohibitions and restrictions on imports and exports in respect of articles required by the Council for its official use; articles imported under such exemption will not be sold in the country into which they are imported, except under conditions approved by the Government of that country;

(*c*) from all customs duties, and prohibitions and restrictions on imports and exports in respect of its publications.

PART III.—COMMUNICATIONS

ARTICLE 8. The Committee of Ministers and the Secretary-General shall enjoy in the territory of each Member, for their official communications, treatment at least as favourable as that accorded by that Member to the diplomatic missions of any other Government.

No censorship shall be applied to the official correspondence and other official communications of the Committee of Ministers and of the Secretariat.

PART IV.—REPRESENTATIVES OF MEMBERS TO THE COMMITTEE OF MINISTERS

ARTICLE 9. Representatives at the Committee of Ministers shall, while exercising their functions and during their journeys to and from the place of meeting, enjoy the following privileges and immunities:—

(*a*) Immunity from personal arrest or detention and from seizure of their personal baggage, and, in respect of words spoken or written and all acts done by them in their official capacity, immunity from legal process of every kind.

(*b*) Inviolability for all papers and documents.

(*c*) The right to use codes and to receive papers or correspondence by courier or in sealed bags.

(*d*) Exemption in respect of themselves and their spouses from immigration restrictions and aliens' registration in the State which they are visiting or through which they are passing in the exercise of their functions.

(*e*) The same facilities in respect of currency or exchange restrictions as are accorded to representatives of comparable rank of diplomatic missions.

(*f*) The same immunities and facilities in respect of their personal baggage as are accorded to members of comparable rank in diplomatic missions.

ARTICLE 10. In order to secure for the representatives at the Committee of Ministers complete freedom of speech and complete independence in the discharge of their duties, the immunity from legal process in respect of words

spoken or written and all acts done by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer engaged in the discharge of such duties.

ARTICLE 11. Privileges and immunities are accorded to the representatives of Members, not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with the Committee of Ministers. Consequently, a Member not only has the right, but is under a duty to waive the immunity of its representatives in any case where, in the opinion of the Member, the immunity would impede the course of justice, and where it can be waived without prejudice to the purpose for which the immunity is accorded.

ARTICLE 12. (a) The provisions of articles 9, 10 and 11 are not applicable in relation to the authorities of a State of which the person is a national or of which he is or has been a representative.

(b) In articles 9, 10, 11 and 12 (a) above, the expression "representatives" shall be deemed to include all representatives, alternate representatives, advisers, technical experts and secretaries of delegations.

PART V.—REPRESENTATIVES TO THE CONSULTATIVE ASSEMBLY

ARTICLE 13. No administrative or other restriction shall be imposed on the free movement to and from the place of meeting of representatives to the Consultative Assembly and their substitutes.

Representatives and their substitutes shall, in the matter of customs and exchange control, be accorded:—

(a) by their own Government, the same facilities as those accorded to senior officials travelling abroad on temporary official duty;

(b) by the Governments of other Members, the same facilities as those accorded to representatives of foreign Governments on temporary official duty.

ARTICLE 14. Representatives to the Consultative Assembly and their substitutes shall be immune from all official interrogation and from arrest and all legal proceedings in respect of words spoken or votes cast by them in the exercise of their functions.

ARTICLE 15. During the sessions of the Consultative Assembly the representatives to the Assembly and their substitutes, whether they be Members of Parliament or not, shall enjoy:—

(a) on their national territory, the immunities accorded in those countries to Members of Parliament;

(b) on the territory of all other Member States, exemption from arrest and prosecution.

This immunity also applies when they are travelling to and from the place of meeting of the Consultative Assembly. It does not, however, apply when representatives and their substitutes are found committing, attempting to commit, or just having committed an offence, nor in cases where the Assembly has waived the immunity.

PART VI.—OFFICIALS OF THE COUNCIL

ARTICLE 16. In addition to the immunities and privileges specified in Article 18 below, the Secretary-General and Deputy Secretary-General shall be accorded in respect of themselves, their spouses and minor children the privileges and immunities, exemptions and facilities accorded to diplomatic envoys in accordance with International Law.

ARTICLE 17. The Secretary-General will specify the categories of officials to which the provisions of Article 18 below shall apply. He shall communicate them to the Governments of all Members. The names of the officials included in these categories shall from time to time be made known to the above-mentioned Governments.

ARTICLE 18. Officials of the Council of Europe shall:—

(a) be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity and within the limit of their authority.

(b) be exempt from taxation on the salaries and emoluments paid to them by the Council of Europe;

(c) be immune, together with their spouses and relatives dependent on them, from immigration restrictions and aliens' registration;

(d) be accorded the same privileges in respect of exchange facilities as are accorded to officials of comparable rank forming part of diplomatic missions to the Government concerned;

(e) be given, together with their spouse and relatives dependent on them, the same repatriation facilities in time of international crisis as diplomatic envoys;

(f) have the right to import free of duty their furniture and effects at the time of first taking up their post in the country in question, and to re-export the same free of duty to their country of domicile.

ARTICLE 19. Privileges and immunities are granted to officials in the interests of the Council of Europe and not for the personal benefit of the individuals themselves. The Secretary-General shall have the right and the duty to waive the immunity of any official in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the Council of Europe. In the case of the Secretary-General and of the Deputy Secretary-General the Committee of Ministers shall have the right to waive immunity.

PART VII.—SUPPLEMENTARY AGREEMENTS

ARTICLE 20. The Council may conclude with any Member or Members supplementary agreements modifying the provisions of this General Agreement, so far as that Member or those Members are concerned.

PART VIII.—DISPUTES

ARTICLE 21. Any dispute between the Council and private persons regarding supplies furnished, services rendered or immovable property purchased on

behalf of the Council, shall be submitted to arbitration, as provided in an administrative order issued by the Secretary-General with the approval of the Committee of Ministers.

PART IX.—FINAL PROVISIONS

ARTICLE 22. The present Agreement shall be ratified. Instruments of ratification shall be deposited with the Secretary-General. The Agreement shall come into force as soon as seven signatories have deposited their instruments of ratification.

Nevertheless, pending the entry into force of the Agreement, in accordance with the provisions of the preceding paragraph, the signatories agree, in order to avoid any delay in the efficient working of the Council, to apply it provisionally from the date of signature, so far as it is possible to do so under their respective constitutional systems.

In witness whereof the undersigned plenipotentiaries, being duly authorised to that effect, have signed the present General Agreement.

DONE at Paris, this 2nd day of September, 1949, in French and in English, both texts being equally authentic, in a single copy which shall remain in the Archives of the Council of Europe. The Secretary-General shall transmit certified copies to each of the signatories.

F. NORTH ATLANTIC TREATY ORGANIZATION (NATO), 4 APRIL 1949

The text of the North Atlantic Treaty (U. S. Treaties and other International Acts Series 1964) appears in International Law Documents 1948–1949, p. 52, and earlier in the present volume.

NATO has taken over the military and defense functions of the organization set up by the Brussels Treaty, of 17 March 1948, all five members of "Western Union" being members of NATO as well. There is a close coordination, much of it informal, between NATO and OEEC in the economic field. The relationship between NATO and the European Defense Community (EDC) has not yet gone into effect.

G. THE EUROPEAN COAL AND STEEL COMMUNITY (ECSC)

This organization is not only of immediate significance in the European economy, but provides a structure which is the primary formal basis of the European Defense Community and the proposed European Political Community. Its Assembly, with some modifications, is to become that of the Defense Community, and the Court of the Coal and Steel Community has been named as Court of both the later organizations, to provide unity of jurisdiction. For these reasons, the texts of the Treaty and of the Protocols accompanying it are given in full.

The text is from an English version published by the Community; it is also published in U. S. Senate Executives Q and R, 82d Congress, 2d session (2 June 1952), p. 255. For the French and German official text, see Vertrag ueber die Gruendung der Europaeischen Gemeinschaft fuer Kohle und Stahl, published 18 April 1951 by the Foreign Ministry of the Federal Republic of Germany.

1. Treaty Constituting the European Coal and Steel Community, Paris, 18 April 1951

This Treaty, with its attached protocols, entered into force with the deposit of ratifications on 25 July 1952. The High Authority, the executive of the Community, opened sessions at Luxembourg on 10 August 1952, and is currently served by a staff of some 300 persons. The Special Council of Ministers was formed and first met at Luxembourg on 8 September 1952. The first session of the Common Assembly opened in Strasbourg on 10 September 1952. The members of the Court of Justice took oath of office at Luxembourg on 10 December 1952; rules of procedure were established by a decision of 4 March 1953. The Consultative Committee created by Article 18 of the Treaty first met in Luxembourg on 26 January 1953. Special representatives with diplomatic status have been accredited to the High Authority by the governments of the United Kingdom, the United States, Sweden, Norway, Denmark, Switzerland, and Austria.

Formulation of the relations between the United Kingdom and the Community is in the hands of a Joint Committee composed of members of the High Authority and of the British delegation, assisted by experts. The High Authority has set up a permanent mission to the Organization for European Economic Cooperation, and has delegated an observer, with the right to take part in discussion, to the Coal Committee and to the Steel Committee of that organization. The High Authority also maintains close relations with the Council of Europe by communicating its reports to the Council of Ministers and the Consultative Assembly, and by participating in certain meeting of the organs of the Council. The parliaments of the six member states, following the policy recommended in the Protocol concerning Relations with the Council of Europe (below, *d*), have elected to the Common Assembly a number of those of their members who were already delegated to the Consultative Assembly of the Council of Europe.

At a meeting of the contracting parties to the General Agreement on Tariffs and Trade in October, 1952, the member states of the Community jointly obtained a waiver from the most-favored nation clauses of the Agreement, which would have required Community members to extend their treatment of coal and steel products to the Agreement's twenty-eight other signatories. By the terms of the waiver, the states of the Community are held to such obligations as a single contracting party, consisting of the same European territory, would have under the Agreement; a similar solution was reached in February 1953 with the Council of the Organization for European Economic Cooperation, concerning nondiscrimination clauses in the Organization's Code of Liberalization.

The President of the German Federal Republic, His Royal Highness the Prince Royal of Belgium, the President of the French Republic, the President of the Italian Republic, Her Royal Highness the Grand Duchess of Luxembourg, Her Majesty the Queen of the Netherlands.

Considering that world peace may be safeguarded only by creative efforts equal to the dangers which menace it;

Convinced that the contribution which an organized and vital Europe can bring to civilization is indispensable to the maintenance of peaceful relations;

Conscious of the fact that Europe can be built only by concrete actions which create a real solidarity and by the establishment of common bases for economic development;

Desirous of assisting through the expansion of their basic production in raising the standard of living and in furthering the works of peace;

Resolve to substitute for historic rivalries a fusion of their essential interests; to establish, by creating an economic community, the foundation of a broad

and independent community among peoples long divided by bloody conflicts; and to lay the bases of institutions capable of giving direction to their future common destiny;

Have decided to create a European Coal and Steel Community and to this end have designated as plenipotentiaries:

[Plenipotentiaries omitted]

Which, having exchanged their powers, found in good and due form, have agreed to the following provisions.

TITLE ONE—THE EUROPEAN COAL AND STEEL COMMUNITY

ARTICLE 1. By the present Treaty the High Contracting Parties institute among themselves a EUROPEAN COAL AND STEEL COMMUNITY, based on a common market, common objectives, and common institutions.

ARTICLE 2. The mission of the European Coal and Steel Community is to contribute to economic expansion, the development of employment and the improvement of the standard of living in the participating countries through the institution, in harmony with the general economy of the member States, of a common market as defined in Article 4.

The Community must progressively establish conditions which will in themselves assure the most rational distribution of production at the highest possible level of productivity, while safeguarding the continuity of employment and avoiding the creation of fundamental and persistent disturbances in the economies of the member States.

ARTICLE 3. Within the framework of their respective powers and responsibilities and in the common interest, the institutions of the Community shall:

(a) see that the common market is regularly supplied, taking account of the needs of third countries;

(b) assure to all consumers in comparable positions within the common market equal access to the sources of production;

(c) seek the establishment of the lowest prices which are possible without requiring any corresponding rise either in the prices charged by the same enterprises in other transactions or in the price-level as a whole in another period, while at the same time permitting necessary amortization and providing normal possibilities of remuneration for capital invested;

(d) see that conditions are maintained which will encourage enterprises to expand and improve their ability to produce and to promote a policy of rational development of natural resources, avoiding inconsiderate exhaustion of such resources;

(e) promote the improvement of the living and working conditions of the labor force in each of the industries under its jurisdiction so as to make possible the equalization of such conditions in an upward direction;

(f) further the development of international trade and see that equitable limits are observed in prices charged on external markets;

(g) promote the regular expansion and the modernization of production

as well as the improvement of its quality, under conditions which preclude any protection against competing industries except where justified by illegitimate action on the part of such industries or in their favor.

ARTICLE 4. The following are recognized to be incompatible with the common market for coal and steel, and are, therefore, abolished and prohibited within the Community in the manner set forth in the present Treaty:

(a) import and export duties, or charges with an equivalent effect, and quantitative restrictions on the movement of coal and steel;

(b) measures or practices discriminating among producers, among buyers or among consumers, specifically as concerns prices, delivery terms and transportation rates, as well as measures or practices which hamper the buyer in the free choice of his supplier;

(c) subsidies or state assistance, or special charges imposed by the state, in any form whatsoever;

(d) restrictive practices tending towards the division of markets or the exploitation of the consumer.

ARTICLE 5. The Community shall accomplish its mission, under the conditions provided for in the present Treaty, with limited direct intervention.

To this end, the Community will:

enlighten and facilitate the action of the interested parties by collecting information, organizing consultations and defining general objectives;

place financial means at the disposal of enterprises for their investments and participate in the expenses of readaptation;

assure the establishment, the maintenance and the observance of normal conditions of competition and take direct action with respect to production and the operation of the market only when circumstances make it absolutely necessary;

publish the justifications for its action and take the necessary measures to ensure observance of the rules set forth in the present Treaty.

The institutions of the Community shall carry out these activities with as little administrative machinery as possible and in close cooperation with the interested parties.

ARTICLE 6. The Community shall have juridical personality.

In its international relationships, the Community shall enjoy the juridical capacity necessary to the exercise of its functions and the attainment of its ends.

In each of the member States, the Community shall enjoy the most extensive juridical capacity which is recognized for legal persons of the nationality of the country in question. Specifically, it may acquire and transfer real and personal property, and may sue and be sued in its own name.

The Community shall be represented by its institutions, each one of them acting within the framework of its own powers and responsibilities.

TITLE TWO—THE INSTITUTIONS OF THE COMMUNITY

ARTICLE 7. The institutions of the Community shall be as follows:

a High Authority, assisted by a Consultative Committee;

- a Common Assembly, hereafter referred to as "the Assembly";
- a Special Council, composed of Ministers, hereafter referred to as "the Council";
- a Court of Justice, hereafter referred to as "the Court".

Chapter I—The High Authority

ARTICLE 8. The High Authority shall be responsible for assuring the fulfillment of the purposes stated in the present Treaty under the terms thereof.

ARTICLE 9. The High Authority shall be composed of nine members designated for six years and chosen for their general competence.

A member shall be eligible for reappointment. The number of members of the High Authority may be reduced by unanimous decision of the Council.

Only nationals of the member States may be members of the High Authority.

The High Authority may not include more than two members of the same nationality.

The members of the High Authority shall exercise their functions in complete independence, in the general interest of the Community. In the fulfillment of their duties, they shall neither solicit nor accept instructions from any government or from any organization. They will abstain from all conduct incompatible with the supranational character of their functions.

Each member State agrees to respect this supranational character and to make no effort to influence the members of the High Authority in the execution of their duties.

The members of the High Authority may not exercise any business or professional activities, paid or unpaid, nor acquire or hold, directly or indirectly, any interest in any business related to coal and steel during their term of office or for a period of three years thereafter.

ARTICLE 10. The governments of the member States shall designate eight members of the High Authority by agreement among themselves. These eight members will elect a ninth member, who shall be deemed elected if he receives at least five votes.

The members thus designated will remain in office for six years following the date of the establishment of the common market.

In case a vacancy should occur during this first period for one of the reasons set forth in Article 12, it will be filled under the provisions of the third paragraph of that article, by common agreement among the governments of the member States.

If, during the same period, the provisions of the third paragraph of Article 24 should be applied, the members of the High Authority shall be replaced under the provisions of the first paragraph of the present article.

At the expiration of this period, a complete redesignation shall take place, and the nine members shall be designated as follows: the governments of the member States, in the absence of unanimous agreement, will designate eight members by a five-sixths majority; the ninth will be chosen by vote of these eight under the

terms of the first paragraph of the present article. The same procedure shall apply to a complete redesignation rendered necessary by application of Article 24.

One-third of the members of the High Authority shall be redesignated every two years.

Whenever a complete redesignation shall occur, the sequence of retirement shall be immediately determined by lot on the initiative of the President of the Council.

The regular redesignations resulting from the expiration of the two-year periods shall be made alternately in the following order: by designations of the governments of the member States under the terms of the fifth paragraph of the present article, and by vote of the remaining members of the High Authority under the terms of the first paragraph.

If vacancies should occur for one of the reasons provided in Article 12, these shall be filled under the provisions of the third paragraph of that article, alternatively, in the following order: by designation of the governments of the member States under the terms of the fifth paragraph of the present article, and by vote of the remaining members of the High Authority in accordance with the provisions of the first paragraph.

In all cases provided for in the present article where a member is designated by the governments by a five-sixths majority or by vote of the members of the High Authority, each government shall have a veto right under the following conditions:

If a government has used its right of veto with respect to two persons in the case of an individual redesignation and of four persons in the case of a general or biennial redesignation, any other exercise of that right on the same occasion may be referred to the Court by another government; the Court may declare the veto null and void if it considers it abusive.

Except in the case of removal under the provisions of the second paragraph of Article 12, the members of the High Authority shall remain in office until their replacement.

ARTICLE 11. The President and the Vice President of the High Authority shall be designated from among the membership of the High Authority for two years, in accordance with the procedure provided for the designation of the members of the High Authority by the governments of the member States. They may be reelected.

Except in the case of a complete redesignation of the membership of the High Authority, the designation of the President and the Vice President shall be made after consultation with the High Authority.

ARTICLE 12. In addition to the provisions for regular redesignation, the terms of office of a member of the High Authority may be terminated by death or resignation.

Members who no longer fulfill the conditions necessary to the exercise of their functions or who have committed a gross fault may be removed from office by the Court on petition by the High Authority or the Council.

In the cases provided in the present Article, the member in question shall be replaced for the remainder of his term, under the provisions of Article 10. There shall be no such replacement if the remainder of his term is less than three months.

ARTICLE 13. The High Authority shall act by vote of a majority of its membership.

Its quorum shall be fixed by its rules of procedure. However, this quorum must be greater than one-half of its membership.

ARTICLE 14. In the execution of its responsibilities under the present Treaty and in accordance with the provisions thereof, the High Authority shall issue decisions, recommendations and opinions.

Decisions shall be binding in all their details.

Recommendations shall be binding with respect to the objectives which they specify but shall leave to those to whom they are directed the choice of appropriate means for attaining these objectives.

Opinions shall not be binding.

When the High Authority is empowered to issue a decision, it may limit itself to making a recommendation.

ARTICLE 15. The decisions, recommendations and opinions of the High Authority shall state the reasons therefor, and shall take note of the opinions which the High Authority is required to obtain.

When such decisions and recommendations are individual in character, they shall be binding on the interested party upon their notification to him.

In other cases, they shall take effect automatically upon publication.

The High Authority shall determine the manner in which the provisions of the present article are to be carried out.

ARTICLE 16. The High Authority shall take all appropriate measures of an internal nature to assure the functioning of its services.

It may institute study Groups and specifically an economic study Group.

Within the framework of general organizational regulations established by the High Authority, the President of the High Authority shall be responsible for the administration of its services, and shall insure the execution of the acts of the High Authority.

ARTICLE 17. The High Authority shall publish annually, at least a month before the meeting of the Assembly, a general report on the activities of the Community and on its administrative expenditures.

ARTICLE 18. There shall be created a Consultative Committee, attached to the High Authority. It shall consist of not less than thirty and not more than fifty-one members, and shall include producers, workers and consumers and dealers in equal numbers.

The members of the Consultative Committee shall be appointed by the Council.

As concerns producers and workers, the Council shall designate the representative organizations among which it shall allocate the seats to be filled. Each organization shall be asked to draw up a list comprising twice the number of seats allocated to it. Designations shall be made from this list.

The members of the Consultative Committee shall be designated in their individual capacity. They shall not be bound by any mandate or instruction from the organizations which proposed them as candidates.

A President and officers shall be elected for one-year terms by the Consultative Committee from its own membership. The Committee shall fix its own rules of procedure.

The allowances of members of the Consultative Committee shall be determined by the Council on proposal by the High Authority.

ARTICLE 19. The High Authority may consult the Consultative Committee in any case it deems proper. It shall be required to do so whenever such consultation is prescribed by the present Treaty.

The High Authority shall submit to the Consultative Committee the general objectives and programs established under the terms of Article 46, and shall keep the Committee informed of the broad lines of its action under the terms of Articles 54, 65 and 66.

If the High Authority deems it necessary, it shall give the Consultative Committee a period in which to present its opinion of not less than ten days from the date of the notification to that effect addressed to the President of the Committee.

The Consultative Committee shall be convoked by its President, either at the request of the High Authority or at the request of a majority of its members, for the purpose of discussing a given question.

The minutes of the meetings shall be transmitted to the High Authority and to the Council at the same time as the opinions of the Committee.

Chapter II—The Assembly

ARTICLE 20. The Assembly, composed of representatives of the peoples of the member States of the Community, shall exercise the supervisory powers which are granted to it by the present Treaty.

ARTICLE 21. The Assembly shall be composed of delegates whom the parliaments of each of the member States shall be called upon to designate once a year from among their own membership, or who shall be elected by direct universal suffrage, according to the procedure determined by each respective High Contracting Party.

The number of delegates is fixed as follows:

Germany	18
Belgium	10
France	18
Italy	18
Luxembourg	4
Netherlands	10

The representatives of the people of the Saar are included in the number of delegates attributed to France.

ARTICLE 22. The Assembly shall hold an annual session. It shall convene regularly on the second Tuesday in May. Its session may not last beyond the end of the then current fiscal year.

The Assembly may be convoked in extraordinary session on the request of the Council in order to state its opinion on such questions as may be put to it by the Council.

It may also meet in extraordinary session on the request of a majority of its members or of the High Authority.

ARTICLE 23. The Assembly shall designate its President and officers from among its membership.

The members of the High Authority may attend all meetings. The President of the High Authority or such of its members as it may designate shall be heard at their request.

The High Authority shall reply orally or in writing to all questions put to it by the Assembly or its members.

The members of the Council may attend all meetings and shall be heard at their request.

ARTICLE 24. The Assembly shall discuss in open session the general report submitted to it by the High Authority.

If a motion of censure on the report is presented to the Assembly, a vote may be taken thereon only after a period of not less than three days following its introduction, and such vote shall be by open ballot.

If the motion of censure is adopted by two-thirds of the members present and voting, representing a majority of the total membership, the members of the High Authority must resign in a body. They shall continue to carry out current business until their replacement in accordance with Article 10.

ARTICLE 25. The Assembly shall fix its own rules of procedure, by vote of a majority of its total membership.

The acts of the Assembly shall be published in a manner to be prescribed in such rules of procedure.

Chapter III—The Council

ARTICLE 26. The Council shall exercise its functions in the events and in the manner provided in the present Treaty, in particular with a view to harmonizing the action of the High Authority and that of the governments, which are responsible for the general economic policy of their countries.

To this end, the Council and the High Authority shall consult together and exchange information.

The Council may request the High Authority to examine all proposals and measures which it may deem necessary or appropriate for the realization of the common objectives.

ARTICLE 27. The Council shall be composed of representatives of the member States. Each State shall designate thereto one of the members of its government.

The Presidency of the Council shall be exercised for a term of three months

by each member of the Council in rotation in the alphabetical order of the member States.

ARTICLE 28. Meetings of the Council shall be called by its President on the request of a State or of the High Authority.

When the Council is consulted by the High Authority, it may deliberate without necessarily proceeding to a vote. The minutes of its meetings shall be forwarded to the High Authority.

Wherever the present Treaty requires the concurrence of the Council, this concurrence shall be deemed to have been granted if the proposal submitted by the High Authority is approved:

by an absolute majority of the representatives of the member States, including the vote of the representative of one of the States which produces at least twenty percent of the total value of coal and steel produced in the Community;

or, in case of an equal division of votes, and if the High Authority maintains its proposal after a second reading, by the representatives of two member States, each of which produces at least twenty percent of the total value of coal and steel in the Community.

Wherever the present Treaty requires a unanimous decision or unanimous concurrence, such decision or concurrence will be adopted if supported by the votes of all the members of the Council.

The decisions of the Council, other than those which require a qualified majority or a unanimous vote, will be taken by a vote of the majority of the total membership. This majority shall be deemed to exist if it includes the absolute majority of the representatives of the member States including the vote of the representative of one of the States which produces at least twenty percent of the total value of coal and steel produced in the Community.

In case of a vote, any member of the Council may act as proxy for not more than one other member.

The Council shall communicate with the member States through the intermediary of its President.

The acts of the Council shall be published under a procedure which it shall establish.

ARTICLE 29. The Council shall fix the salaries, allowances and pensions of the President and members of the High Authority, and of the President, the judges, the Court advocates and the clerk of the Court.

ARTICLE 30. The Council shall establish its own rules of procedure.

Chapter IV—The Court

ARTICLE 31. The function of the Court is to ensure the rule of the law in the interpretation and application of the present Treaty and of its implementing regulations.

ARTICLE 32. The Court shall be composed of seven judges, appointed for six years by agreement among the governments of the member States from among persons of recognized independence and competence.

A partial change in membership of the Court shall occur every three years, affecting alternatively three members and four members. The three members whose terms expire at the end of the first period of three years shall be designated by lot.

Judges shall be eligible for reappointment.

The number of judges may be increased by unanimous vote of the Council on proposal by the Court.

The judges shall designate one of their number as President for a three-year term.

ARTICLE 33. The court shall have jurisdiction over appeals by a member State or by the Council for the annulment of decisions and recommendations of the High Authority on the grounds of lack of legal competence, substantial procedural violations, violation of the Treaty or of any rule of law relating to its application, or abuse of power. However, the Court may not review the conclusions of the High Authority, drawn from economic facts and circumstances, which formed the basis of such decisions or recommendations, except where the High Authority is alleged to have abused its powers or to have clearly misinterpreted the provisions of the Treaty or of a rule of law relating to its application.

The enterprises, or the associations referred to in Article 48, shall have the right of appeal on the same grounds against individual decisions and recommendations concerning them, or against general decisions and recommendations which they deem to involve an abuse of power affecting them.

The appeals provided for in the first two paragraphs of the present article must be taken within one month from the date of the notification or the publication, as the case may be, of the decision or recommendation.

ARTICLE 34. If the Court should annul a decision or recommendation of the High Authority, the matter shall be remanded to the High Authority. The latter must take the necessary measures in order to give effect to the judgment of annulment. In case a decision or recommendation is adjudged by the Court to involve a fault for which the Community is liable, and causes a direct and particular injury to an enterprise or a group of enterprises, the High Authority must take such measures, within the powers granted to it by the present Treaty, as will assure an equitable redress for the injury resulting directly from the decision or recommendation which has been annulled, and, to the extent necessary, must grant a reasonable indemnity.

If the High Authority fails to take within a reasonable period the measures required to give effect to a judgment of annulment, an appeal for damages may be brought before the Court.

ARTICLE 35. In the cases where the High Authority is required by a provision of the present Treaty or of implementing regulations to issue a decision or recommendation, and fails to fulfill this obligation, such omission may be brought to its attention by the States, the Council or the enterprises and associations, as the case may be.

The same shall be true if the High Authority refrains from issuing a decision or recommendation which it is empowered to issue by a provision of the present Treaty or implementing regulations, where such failure to act constitutes an abuse of power.

If at the end of a period of two months the High Authority has not issued any decision or recommendation, an appeal may be brought before the Court, within a period of one month, against the implicit negative decision which is presumed to result from such failure to act.

ARTICLE 36. Prior to imposing a pecuniary sanction or fixing a daily penalty payment provided for in the present Treaty, the High Authority shall give the interested enterprise an opportunity to present its views.

An appeal to the general jurisdiction of the Court may be taken from the pecuniary sanctions and daily penalty payments imposed under the provisions of the present Treaty.

In support of such an appeal, and under the terms of the first paragraph of Article 33 of the present Treaty, the petitioners may contest the regularity of the decisions and recommendations which they are charged with violating.

ARTICLE 37. If a member State shall deem that in a given case an action of the High Authority, or a failure by it to act, is of such a nature as to provoke fundamental and persistent disturbances in the economy of such State, it may bring the matter to the attention of the High Authority.

The latter, after having obtained the opinion of the Council, will recognize the existence of such situation, if any, and decide on the measures to be taken, under the terms of the present Treaty, to correct such situation while at the same time safeguarding the essential interests of the Community.

When an appeal is taken to the Court under the provisions of the present Article against such decision or against the explicit or implicit decision refusing to recognize the existence of the situation mentioned above, the Court shall review the sufficiency of the grounds of such decision.

In the case of annulment, the High Authority shall decide, within the framework of the Court's judgment, the measures to be taken to fulfill the objectives set forth in the second paragraph of the present article.

ARTICLE 38. On the petition of a member State or the High Authority, the Court may annul the acts of the Assembly or of the Council.

The petition must be submitted within one month from the publication of such act of the Assembly or of the notification of such act of the Council to the member States or to the High Authority.

Such an appeal may be based only on the grounds of lack of legal competence or substantial procedural violations.

ARTICLE 39. Appeals to the Court shall not have the effect of suspending the execution of a decision or a recommendation.

However, if in its judgment circumstances demand, the Court may order the suspension of the execution of the decision or recommendation in question.

It may prescribe any other necessary provisional measures.

ARTICLE 40. Subject to the provisions of the first paragraph of Article 34, the Court shall have jurisdiction to assess damages against the Community, at the request of the injured party, in cases where injury results from a fault involved in an official act of the Community in execution of the present Treaty.

It shall also have jurisdiction to assess damages against any official or employee of the Community, in cases where injury results from a personal fault of such official or employee in the performance of his duties. If the injured party is unable to recover such damages from such official or employee, the Court may assess an equitable indemnity against the Community.

All other litigation between the Community and third parties, other than that relating to the application of the provisions of the present Treaty and implementing regulations, shall be brought before the national tribunals.

ARTICLE 41. When the validity of acts of the High Authority or the Council is contested in litigation before a national tribunal, such issue shall be certified to the Court, which shall have exclusive jurisdiction to rule thereon.

ARTICLE 42. The Court shall have such jurisdiction as may be provided by any clause to such effect in a public or private contract to which the Community is a party or which is undertaken for its account.

ARTICLE 43. The Court shall have jurisdiction in any other case provided for in a supplementary provision of the Treaty.

It may also exercise jurisdiction in any case relating to the objects of the present Treaty, where the laws of a member State grant such jurisdiction to it.

ARTICLE 44. The judgment of the Court shall be executory on the territory of the member States under the terms of Article 92 below.

ARTICLE 45. The Code of the Court shall be contained in a Protocol annexed to the present Treaty.

TITLE THREE—ECONOMIC AND SOCIAL PROVISIONS

Chapter I—General Provisions

ARTICLE 46. The High Authority may at any time consult the governments, the various interested parties (enterprises, workers, consumers and dealers) and their associations, as well as any experts.

Enterprises, workers, consumers and dealers, and their associations, may present any suggestion or observations to the High Authority on questions which concern them.

In order to provide guidance for the action of all of the interested parties in the achievement of the purposes assigned to the Community, and to determine its own action within the framework of the present Treaty, the High Authority shall, by means of the consultations mentioned above:

(1) carry on a permanent study of markets and price tendencies;

(2) periodically draw up non-compulsory program forecasts dealing with production, consumption, exports and imports;

(3) periodically work out general programs with respect to modernization, the long-term orientation of manufacturing and the expansion of productive capacity;

(4) at the request of the interested governments, participate in the study of the possibilities of reemployment, either in existing industries or through the creation of new activities, of workers set at liberty by the evolution of the market or by technical transformations;

(5) gather all information necessary to the appraisal of the possibilities of improving the living and working conditions of the labor force in the industries under its jurisdiction, and of the risks which menace such living conditions.

It shall publish the general objectives and programs after having submitted them to the Consultative Committee.

It may make public the studies and information mentioned above.

ARTICLE 47. The High Authority may gather such information as may be necessary to the accomplishment of its mission. It may have the necessary verifications carried out.

The High Authority shall not divulge information which by its nature is considered a professional secret, and in particular information pertaining to the commercial relations or the breakdown of the costs of production of enterprises. With this reservation, it shall publish such data as may be useful to governments or to any other interested parties.

The High Authority may impose fines and daily penalty payments upon those enterprises which evade their obligations resulting from decisions made in application of the provisions of the present article, or which knowingly furnish false information. The maximum amount of such fines shall be one percent of the annual turnover and the maximum amount of such penalty payments shall be five percent of the average daily turnover for each day the violation continues.

Any violation by the High Authority of professional secrecy which has caused damage to an enterprise may be the subject of a suit for damages before the Court under the conditions provided for in Article 40.

ARTICLE 48. The right of enterprises to form associations is not affected by the present Treaty. Membership in such associations must be voluntary. The associations may engage in any activity which is not contrary to the provisions of the present Treaty or to the decisions or recommendations of the High Authority.

In cases where the present Treaty requires the consultation of the Consultative Committee, any association has the right to submit to the High Authority, within the time limits fixed by the latter, the observations of its members on the action envisaged.

The High Authority will normally call upon producers' associations to obtain information which it requires or to facilitate the fulfillment of its tasks, provided that the associations in question either permit the qualified representatives of the workers and consumers to participate in the leadership of these associations or in consultative committees affiliated to them, or in any other way give a satisfactory place in their organization to the expression of the workers' and consumers' interests.

The associations referred to in the preceding paragraph shall be obliged to furnish the High Authority with such information on their activity as the High

Authority may deem necessary. The observations mentioned in the second paragraph of the present article and the information furnished under the fourth paragraph shall also be forwarded by the associations to the government concerned.

Chapter II—Financial Provisions

ARTICLE 49. The High Authority is empowered to procure the funds necessary to the accomplishment of its mission:

- by placing levies on the production of coal and steel;
- by borrowing.

It may also receive grants.

ARTICLE 50. 1. The levies are intended to cover:

- the administrative expenses provided for in Article 78;
- the non-reimbursable assistance provided for in Article 56, concerning readaptation;

as concerns the financial facilities provided for in Articles 54 and 56, and after recourse to the reserve fund, any portion of the servicing charges on the High Authority's obligations which cannot be covered by receipts from the servicing of loans granted by the High Authority, as well as payments which might be required by virtue of the operation of the Authority's guarantee on loans obtained directly by the enterprises;

expenditures to encourage technical and economic research as provided for in section 2 of Article 55.

2. The levies are assessed annually on the various products according to their average value; the rate of levy may not exceed one percent unless previously authorized by a two-thirds majority of the Council. The method of assessment and collection shall be fixed by a general decision of the High Authority taken after consulting the Council; to the extent possible, cumulative taxation shall be avoided.

3. The High Authority may impose increases of not more than 5 percent per quarter-year of delay in payment upon enterprises which do not obey the decisions which it may issue in application of the present article.

ARTICLE 51. 1. The funds obtained by borrowing may be used by the High Authority only to grant loans.

The issuance of the obligations of the High Authority on the markets of member States shall be subject to the regulations in effect on these markets.

In case the High Authority shall deem the guarantee of member governments necessary in order to contract loans, it shall approach the interested government or governments after consulting the Council. No government shall be required to give its guarantee.

2. In accordance with the terms of Article 54, the High Authority may guarantee loans granted directly to enterprises by third parties.

3. The High Authority may adjust its terms for loans or guarantees in order to build up a reserve fund, for the sole purpose of reducing the size of the levy provided for in the third sub-paragraph of section 1 of Article 50; the sums thus accumulated may not be used in any manner to grant loans to enterprises.

4. The High Authority itself shall not perform the operations of a banking nature which may be required to carry out its financial missions.

ARTICLE 52. The member States shall take all necessary measures to assure the free transfer within the territories mentioned in the first paragraph of Article 79, and through the channels employed for commercial payments, of funds derived from levies, from pecuniary sanctions of all kinds, and from the reserve fund, to the extent necessary to their use for the purposes set forth in the present Treaty.

The methods of transfer among member States, as well as to third countries, of funds resulting from the other financial operations effected by the High Authority or under its guarantee shall be the subject of agreements concluded by the High Authority with the interested governments or the competent bodies; no member State which applies exchange controls shall be obliged to assure any such transfers to which it has not explicitly agreed.

ARTICLE 53. Without prejudice to the provisions of Article 58 and of Chapter V of Title Three, the High Authority may:

(a) after consulting the Consultative Committee and the Council, authorize the institution, under conditions which it shall determine and under its control, of any financial mechanisms common to several enterprises which are deemed necessary for the accomplishment of the missions defined in Article 3 and compatible with the provisions of the present Treaty and particularly of Article 65;

(b) with the concurrence of the Council acting by unanimous vote, institute itself any financial mechanism satisfying the same purposes as referred to above.

Mechanisms of the same nature instituted or maintained by the member States shall be reported to the High Authority which, after consulting the Consultative Committee and the Council, shall address to the interested States the necessary recommendations, in case such mechanisms should be wholly or partly contrary to the application of the present Treaty.

Chapter III—Investments and Financial Assistance

ARTICLE 54. The High Authority may facilitate the carrying out of investment programs by granting loans to enterprises or by giving its guarantee to loans which they may obtain elsewhere.

With the concurrence of the Council acting by unanimous vote, the High Authority may assist by the same means in financing works and installations which contribute directly and principally to increase production, lower production costs or facilitate marketing of products subject to its jurisdiction.

In order to encourage a coordinated development of investments, the High Authority may, in accordance with the provisions of Article 47, require enterprises to submit individual programs in advance, either by a special demand addressed to the enterprise concerned or by a decision defining the nature and the size of the programs which must be submitted.

Within the framework of the general programs described in Article 46, the High Authority may, after having given the interested parties an opportunity

to present their views, issue an opinion on such programs, accompanied by a justification. It is obliged to issue such an opinion when so requested by an enterprise. The High Authority shall notify the enterprise of its opinion and shall bring it to the attention of the government concerned. The list of opinions shall be made public.

If the High Authority finds that the financing of a program or the operation of the installations which it entails would require subsidies, assistance, protection or discrimination contrary to the present Treaty, the unfavorable opinion taken by virtue of this justification shall have the force of a decision as defined in Article 14, and shall have the effect of prohibiting the enterprise concerned from resort to resources other than its own funds to put such program into effect.

The High Authority may impose fines not exceeding the sums unduly devoted to realization of the program in question on enterprises which violate the provisions of the above paragraph.

ARTICLE 55. 1. The High Authority shall encourage technical and economic research concerning the production and the development of consumption of coal and steel, as well as labor safety in these industries. To this end, it shall establish all appropriate contacts among existing research organizations.

2. After consultation with the Consultative Committee, the High Authority may initiate and facilitate the development of such research work:

- (a) by encouraging joint financing by the interested enterprises; or
- (b) by earmarking for that purpose any grants it may receive; or
- (c) with the concurrence of the Council by earmarking for that purpose funds derived from the levies provided for in Article 50, without, however, going beyond the ceiling defined in section 2 of that article.

The results of the research financed under the conditions set forth in subparagraphs (b) and (c) above shall be placed at the disposal of all interested parties in the Community.

3. The High Authority shall make all useful suggestions for the dissemination of technical improvements, particularly with regard to the exchange of patents and the granting of licenses.

ARTICLE 56. If the introduction of technical processes or new equipment within the framework of the general programs of the High Authority should lead to an exceptional reduction in labor requirements in the coal or steel industries, creating special difficulties in one or more areas for the re-employment of the workers released, the High Authority, on the request of the interested governments:

- (a) will consult the Consultative Committee;
- (b) may facilitate, in accordance with the methods provided for in Article 54, the financing of such programs as it may approve for the creation, either in the industries subject to its jurisdiction or, with the concurrence of the Council, in any other industry, of new and economically sound activities capable of assuring productive employment to the workers thus released;
- (c) will grant non-reimbursable assistance to contribute to:

the payment of indemnities to tide the workers over until they can obtain new employment;

the granting of allowances to the workers for reinstallation expenses;

the financing of technical retraining for workers who are led to change their employment.

The High Authority shall condition the granting of non-reimbursable assistance on the payment by the interested State of a special contribution at least equal to such assistance, unless a two-thirds majority of the Council authorizes an exception to this rule.

Chapter IV—Production

ARTICLE 57. In the field of production, the High Authority shall give preference to the indirect means of action at its disposal, such as:

cooperation with governments to regularize or influence general consumption, particularly that of the public services;

intervention on prices and commercial policy as provided for in the present Treaty.

ARTICLE 58. 1. In case of a decline in demand, if the High Authority deems that the Community is faced with a period of manifest crisis and that the means of action provided for in Article 57 are not sufficient to cope with that situation, it shall, after consulting the Consultative Committee and with the concurrence of the Council, establish a system of production quotas, accompanied, to the extent necessary, by the measures provided for in Article 74.

If the High Authority fails to act, one of the member States may bring the matter to the attention of the Council which, acting by unanimous vote, may require the High Authority to establish a system of quotas.

2. The High Authority, after consultation with the enterprises and their associations, shall establish quotas on an equitable basis in accordance with the principles defined in Articles 2, 3 and 4. The High Authority may in particular regulate the rate of operation of the enterprises by appropriate levies on tonnages exceeding a reference level defined by a general decision.

The sums thus obtained will be earmarked for the support of those enterprises whose production rate has dropped below the level envisaged, particularly in order to ensure as far as possible the maintenance of employment in those enterprises.

3. The system of quotas shall be terminated automatically upon a proposal to the Council by the High Authority after consulting the Consultative Committee, or by the government of one of the member States, except in the case of a contrary decision of the Council; such decision must be taken by unanimous vote if the proposal originates with the High Authority, or by simple majority if the proposal originates with a government. The termination of the quota system shall be published by the High Authority.

4. The High Authority may impose, upon enterprises violating the decisions taken by it in application of the present article, fines not to exceed a sum equal to the value of the irregular production.

ARTICLE 59. 1. If, after consulting the Consultative Committee, the High Authority finds that the Community is faced with a serious shortage of certain or all of the products subject to its jurisdiction, and that the means of action provided for in Article 57 do not enable it to cope with the situation, it shall bring this situation to the attention of the Council, and, unless the Council decides otherwise by unanimous vote, shall propose the necessary measures.

If the High Authority fails to take any initiative, one of the member States may bring the matter before the Council, which by unanimous decision may recognize the existence of the situation mentioned above.

2. Acting by unanimous vote, on the basis of proposals by and in consultation with the High Authority, the Council shall establish consumption priorities and determine the allocation of the coal and steel resources of the Community among the industries subject to its jurisdiction, exports, and other consumption.

On the basis of the consumption priorities thus determined, the High Authority shall, after consulting the enterprises concerned, establish manufacturing programs which the enterprises shall be required to execute.

3. If the Council fails to reach a unanimous decision on the measures referred to in Section 2, the High Authority will itself proceed to allocate the resources of the Community among the member States on the basis of consumption and exports and independently of the location of production.

The allocation of the resources assigned by the High Authority shall be carried out within each of the member States under the responsibility of the government of that State, which shall consult with the High Authority concerning the portion of such resources to be assigned to export and to the operation of the coal and steel industries.

If the quantities actually exported by a member State are less than the scheduled quantities which were included in the basis for total allocations to the State in question, the High Authority will to the extent necessary redistribute among the member States the additional availabilities for consumption thus created, whenever a new allocation is made.

If a relative reduction in the quantities directed by a government to the coal and steel industries leads to a reduction in production of one of these products in the Community, the allocation of that product to the member State in question at the time of a new allocation shall be reduced to the same extent as the reduction in production for which it is responsible.

4. In all cases, the High Authority, acting on the basis of studies undertaken in the consultation with the enterprises and their associations, shall be responsible for allocating equitably among enterprises the quantities earmarked for the industries under its jurisdiction.

5. In the situation described in Section 1 of the present article, the High Authority may, after consulting the Consultative Committee and with the concurrence of the Council, decide on the establishment in all member States of restrictions on exports to third countries in conformity with the provisions of Article 57; in the absence of any initiative on the part of the High Authority, the Council may take such a decision by unanimous vote upon the proposal of a government.

6. The High Authority may terminate the system set up in conformity with the present Article after consultation with the Consultative Committee and the Council. It may not override a unanimous vote of the Council opposing such termination.

If the High Authority fails to take any initiative, the Council may, by unanimous vote, terminate the system of allocation.

7. The High Authority may impose, upon enterprises which violate the decisions taken in application of the present article, fines not to exceed in amount twice the value of the manufactures or deliveries prescribed and not executed or diverted from their proper use.

Chapter V—Prices

ARTICLE 60. 1. Pricing practices contrary to the provisions of Article 2, 3 and 4 are prohibited, particularly:

unfair competitive practices, in particular purely temporary or purely local price reductions whose purpose is to acquire a monopoly position within the common market;

discriminatory practices involving the application by a seller within the single market of unequal conditions to comparable transactions, especially according to the nationality of the buyer.

After consultation with the Consultative Committee and the Council, the High Authority may define the practices covered by this prohibition.

2. For the above purposes:

(a) the prices scales and conditions of sales to be applied by enterprises within the single market shall be made public to the extent and in the form prescribed by the High Authority after consultation with the Consultative Committee; if the High Authority deems that an enterprise has chosen an abnormal base point for its price quotations, in particular one which makes it possible to evade the provisions of subparagraph (b) below, it will make the appropriate recommendations to that enterprise.

(b) the prices charged by an enterprise within the common market, calculated on the base of the point chosen for the enterprise's price scale must not as a result of the methods of quotation:

be higher than the price indicated by the price scale in question for a comparable transaction; or

be less than this price by a margin greater than:

either the margin which would make it possible to align the offer in question on that price scale, set up on the basis of another point, which procures for the buyer the lowest price at the place of delivery;

or a limit fixed by the High Authority for each category of products, after consultation with the Consultative Committee, taking into account the origin and destination of such products.

These decisions shall be taken when they appear necessary to avoid disturbances in all or any part of the common market, or disequilibria which would

result from a divergence between the methods of price quotation used for a product and for the materials which enter into its manufacture.

These decisions shall not prevent enterprises from aligning their quotations on the prices offered by enterprises outside the Community, provided that such transactions are reported to the High Authority; the latter may, in case of abuse, limit or eliminate the right of the enterprises in question to benefit from this exception.

ARTICLE 61. On the basis of studies undertaken in cooperation with the enterprises and their associations in accordance with the provisions of the first paragraph of Article 46 and the third paragraph of Article 48, and after consultation with the Consultative Committee and the Council as to the advisability of these measures as well as concerning the price level which they determine, the High Authority may fix for one or more products subject to its jurisdiction:

(a) maximum prices within the common market, if it deems that such a decision is necessary to attain the objectives defined in Article 3 and particularly in paragraph (c) thereof;

(b) minimum prices within the common market, if it deems that a manifest crisis exists or is imminent and that such a decision is necessary to attain the objectives defined in Article 3;

(c) after consultation with the enterprises concerned or their associations, and according to methods adapted to the nature of the export markets, minimum or maximum export prices, if such action can be effectively supervised and appears necessary either because of dangers to the enterprises on account of the situation of the market or to pursue in international economic relations the objective, defined in Article 3, paragraph (f), without prejudice, in the case of minimum prices, to the application of the measures provided for in the last paragraph of section 2 of Article 60.

In price fixing limits the High Authority shall take into account the need to assure the ability to compete both of the coal and steel industries and of the consuming industries, in accordance with the principles defined in Article 3, paragraph (c).

If the High Authority should fail to act under the circumstances described above, the government of one of the member States may refer the matter to the Council; the latter may, by unanimous decision, invite the High Authority to fix such maximum or minimum prices.

ARTICLE 62. If the High Authority should deem that such an action would be the most appropriate one in order to prevent the price of coal from being established at the level of the production costs of the most costly mine whose production is temporarily required to assure accomplishment of the missions defined in Article 3, the High Authority may after consulting the Consultative Committee, authorize compensations:

among enterprises of the same basin to which the same price scales are applicable;

after consulting the Council, among enterprises situated in different basins. Such compensations may in addition, be undertaken under the terms of Article 53.

ARTICLE 63. 1. If the High Authority finds that discrimination is being systematically practised by buyers, particularly as concerns orders placed by government subsidiaries, it shall make the necessary recommendations to the governments concerned.

2. To the extent that it finds necessary, the High Authority may decide that:

(a) enterprises shall establish their conditions of sale in such a way that their customers or their agents shall be obliged to conform to the rules established by the High Authority in application of the provisions of this Chapter;

(b) enterprises shall be made responsible for infractions committed by their direct agents or by dealers acting on behalf such enterprises.

In case of a violation committed by a buyer against the obligations so contracted, the High Authority may limit the right of the enterprises of the Community to deal with the said buyer, to a degree which may entail temporary deprivation of access to the market in case of repeated infractions. In this case, and without prejudice to the provisions of Article 33, the buyer may appeal to the Court.

3. In addition, the High Authority is empowered to address to the member States such recommendations as may be necessary to ensure that any enterprise or organization engaged in distribution of coal or steel shall respect the rules established in application of Section 1 of Article 60.

ARTICLE 64. The High Authority may impose, upon enterprises which violate the provisions of the present Chapter or the decisions taken in application thereof, fines not to exceed twice the value of the irregular sales. In case of second offense, the above maximum may be doubled.

Chapter VI—Agreements and Concentrations

ARTICLE 65. 1. There are hereby forbidden all agreements among enterprises, all decisions of associations of enterprises, and all concerted practices, which would tend, directly or indirectly, to prevent, restrict or impede the normal operation of competition within the common market, and in particular:

(a) to fix or influence prices;

(b) to restrict or control production, technical development or investments;

(c) to allocate markets, products, customers or sources of supply.

2. However, the High Authority will authorize enterprises to agree among themselves to specialize in the production of, or to engage in joint buying or selling of, specified products if the High Authority finds:

(a) that such specialization or such joint buying or selling will contribute to a substantial improvement in the production or marketing of the product in question; and

(b) that the agreement in question is essential to achieve such effects, and does not impose any restriction not necessary for that purpose; and

(c) that it is not susceptible of giving the interested enterprises the power to influence prices, or to control or limit production or marketing of an appreciable part of the products in question within the common market, or of protecting them from the effective competition by other enterprises within the common market.

If the High Authority should recognize that certain agreements are strictly analogous in their nature and effects to the agreements mentioned above, taking into account the application of the present section to distributing enterprises, it will authorize such agreements if it further recognizes that they satisfy the same conditions.

An authorization may be made subject to specified conditions and may be limited in time. If so limited, the High Authority will renew it once or several times if it finds that at the time of renewal the conditions stated in paragraphs (a) to (c) above are still fulfilled.

The High Authority will revoke or modify the authorization if it finds that as a result of changes in circumstances the agreement no longer fulfills the conditions set forth above, or that the actual effects of the agreement or of the operations under it are contrary to the conditions required for its approval.

The decisions granting, modifying, refusing or revoking an authorization shall be published along with their justification; the limitations contained in the second paragraph of Article 47 shall not be applicable to such publication.

3. The High Authority may obtain, in accordance with the provisions of Article 47, any information necessary to the application of the present article, either by a special request addressed to the interested parties or by a regulation defining the nature of the agreements, decisions or practices which must be communicated to it.

4. Any agreement or decision which is prohibited by virtue of Section 1 of the present article shall be automatically void and may not be invoked before any court or tribunal of the member States.

The High Authority has exclusive competence, subject to appeals to the Court, to rule on the conformity of such agreements or decisions with the provisions of the present article.

5. The High Authority may pronounce against enterprises:

which have concluded an agreement which is automatically void;

which have complied with, enforced or attempted to enforce by arbitration, forfeiture, boycott, or any other means, an agreement or decision which is automatically void or an agreement for which approval has been refused or revoked;

which shall have obtained an authorization by means of knowingly false or misleading information; or

which engage in practices contrary to the provisions of Section 1, fines and daily penalty payments not to exceed double the turnover actually realized on the products which have been the subject of the agreement, decision

or practice contrary to the provisions of the present article; if the object of the agreements is to restrict production, technical development or investments, this maximum may be raised to 10 percent of the annual turnover of the enterprises in question, in the case of fines and 20 percent of the daily turnover in the case of daily penalty payments.

ARTICLE 66. 1. Except as provided in paragraph 3 below, any transaction which would have in itself the direct or indirect effect of bringing about a concentration, within the territories mentioned in the first paragraph of Article 79, involving enterprises at least one of which falls under the application of Article 80, shall be submitted to a prior authorization of the High Authority. This obligation shall be effective whether the operation in question is carried out by a person or an enterprise, or a group of persons or enterprises, whether it concerns a single product or different products, whether it is effected by merger, acquisition of shares or assets, loan, contract, or any other means of control. For the application of the above provisions, the High Authority will define by a regulation, established after consultation with the Council, what constitutes control of an enterprise.

2. The High Authority will grant the authorization referred to in the preceding paragraph if it finds that the transaction in question will not give to the interested persons or enterprises, as concerns those of the products in question which are subject to its jurisdiction, the power:

to influence prices, to control or restrain production or marketing, or to impair the maintenance of effective competition in a substantial part of the market for such products; or

to evade the rules of competition resulting from the application of the present Treaty, particularly by establishing an artificially privileged position involving a material advantage in access to supplies or markets.

In this appreciation, and in accordance with the principle of non-discrimination set forth in sub-paragraph (*b*) of Article 4, the High Authority will take account of the size of enterprises of the same nature existing in the Community, to the extent it deems justified to avoid or correct the disadvantages resulting from an inequality in the conditions of competition.

The High Authority may subject such an authorization to any conditions which it deems appropriate for the purposes of the present section.

Before taking action on a transaction concerning enterprises of which at least one is not subject to the application of Article 80, the High Authority will request the observations of the interested government.

3. The High Authority will exempt from the requirement of prior authorization those classes of transactions which, by the size of the assets or enterprises which they affect taken together with the nature of the concentration they bring about, must in its opinion be held to conform to the conditions required by Section 2. The regulation established for this purpose with the concurrence of the Council will also fix the conditions to which such exemption is to be subject.

4. Without limiting the applicability of the provisions of Article 47 to enterprises subject to its jurisdiction, the High Authority may obtain from physical or juridical persons who have acquired or regrouped or might acquire or regroup the rights or assets in question, any information necessary to the application of the present article concerning operations which might produce the effect mentioned in Section 1; it may do this either by a regulation established after consultation with the Council which defines the nature of the operations which must be communicated to it, or by a special demand addressed to the interested parties within the framework of such regulation.

5. If a concentration should occur which the High Authority finds has been effected contrary to the provisions of Section 1 but which it finds nevertheless satisfies the conditions provided in Section 2, it will subject the approval of this concentration to the payment, by the persons who have acquired or regrouped the rights or assets in question, of the fine provided in the second sub-paragraph of Section 6; such payment shall not be less than half of the maximum provided in the said sub-paragraph in any case where it is clear that the authorization should have been requested. In the absence of this payment, the High Authority will apply the measures provided hereafter for concentrations found to be illegal.

If a concentration should occur which the High Authority recognizes cannot satisfy the general or special conditions to which an authorization under Section 2 would be subject, it will establish the illegal character of this concentration by a decision accompanied by a justification; after having allowed the interested parties to present their observations, the High Authority shall order the separation of the enterprises or assets wrongly concentrated or the cessation of common control, as well as any other action which it deems appropriate to re-establish the independent operation of the enterprises or assets in question and to restore normal conditions of competition. Any person directly interested may take an appeal against such decisions under the conditions provided in Article 33. Notwithstanding the provisions of that article, the Court shall be fully competent to judge whether the operation effected is a concentration within the meaning of Section 1 of the present article and of the regulations issued in application of that section. This appeal shall be suspensive. It may not be taken until the measures provided above have been ordered, unless the High Authority should agree to the taking of a separate appeal against the decision declaring the transaction illegal.

The High Authority may at any time, subject to the possible application of the provisions of the third paragraph of Article 39, take or cause to be taken such measures as it may deem necessary to safeguard the interests of competing enterprises and of third parties, and to prevent any action which might impede the execution of its decisions. Unless the Court decides otherwise, appeals shall not suspend the application of such precautionary measures.

The High Authority will grant to the interested parties a reasonable period in which to execute its decisions, at the expiration of which it may begin to impose daily penalty payments not to exceed one-tenth of one percent of the value of the rights or assets in question.

Furthermore, if the interested parties fail to fulfill their obligations, the High Authority shall itself take measures of execution and in particular may: suspend the exercise, in enterprises subject to its jurisdiction, of the rights attached to the assets illegally acquired; bring about the designation by judicial authorities of a receiver-administrator for these assets; organize the forced sale of such assets in conditions preserving the legitimate interests of their proprietors; annul, with respect to physical or juridical persons who have acquired the rights or assets in question by the effect of illegal transaction, the acts, decisions, resolutions, or deliberations of the directing organs of enterprises subject to a control which has been irregularly established.

The High Authority is also empowered to address to the interested member States the recommendations necessary to obtain, within the framework of national legislation, the execution of the measures provided for in the preceding paragraphs.

In the exercise of its powers, the High Authority shall take account of the rights of third persons which have been acquired in good faith.

6. The High Authority may impose fines not to exceed:

3 percent of the value of the assets acquired or regrouped or to be acquired or regrouped, against physical or juridical persons who shall have violated the obligations provided for in Section 4;

10 percent of the value of the assets acquired or regrouped, against physical or juridical persons which shall have violated the obligation provided for in Section 1; after the end of the twelfth month following the transaction, this maximum shall be raised by one-twenty-fourth per month which elapses until the High Authority establishes the existence of the violation;

10 percent of the value of the assets acquired or regrouped or to be acquired or regrouped, against physical or juridical persons which shall have obtained or attempted to obtain the benefit of the provisions of Section 2 by means of false or misleading information;

15 percent of the value of the assets acquired or regrouped, against enterprises subject to its jurisdiction which shall have participated in or lent themselves to the realization of transactions contrary to the provisions of the present article.

Persons who are the object of sanctions provided for in the present paragraph may appeal before the Court under the conditions provided for in Article 36.

7. To the extent necessary, the High Authority is empowered to address to public or private enterprises which, in law or in fact, have or acquire on the market for one of the products subject to its jurisdiction a dominant position which protects them from effective competition in a substantial part of the common market, any recommendations required to prevent the use of such position for purposes contrary to those of the present Treaty. If such recommendations are not fulfilled satisfactorily within a reasonable period, the High Authority will, by decisions taken in consultation with the interested government and under the sanctions provided for in Articles 58, 59 and 64, fix the prices and conditions of sale to be applied by the enterprise in question, or establish manufacturing or delivery programs to be executed by it.

Chapter VII—Impairment of the Conditions of Competition

ARTICLE 67. 1. Any action of a member State which might have noticeable repercussions on the conditions of competition in the coal and steel industries shall be brought to the attention of the High Authority by the interested government.

2. If such an action is liable to provoke a serious disequilibrium by increasing the differentials in costs of production, otherwise than through variations in productivity, the High Authority, after consulting the Consultative Committee and the Council, may take the following measures:

If the action of that State produces harmful effects for coal or steel enterprises coming under the jurisdiction of the State in question, the High Authority may authorize that State to grant such enterprises assistance, the amount, conditions and duration of which shall be determined in agreement with the High Authority. The same provisions shall be applicable in case of a variation in wages and in working conditions which would have the same effects, even if such variation is not the result of a governmental act.

If the action of that State produces harmful effects for coal or steel enterprises subject to the jurisdiction of other member States, the High Authority may address a recommendation to the State in question with a view to remedying such effects by such measures as that State may deem most compatible with its own economic equilibrium.

3. If the action of the State in question reduces differentials in costs of production by granting a special advantage to, or by imposing special burdens on, coal or steel enterprises coming under its jurisdiction in comparison with the other industries in the same country, the High Authority is empowered to address the necessary recommendations to the State in question, after consulting the Consultative Committee and the Council.

Chapter VIII—Wages and Movement of Labor

ARTICLE 68. 1. The methods of fixing wages and social benefits in force in the various member States shall not be affected, as regards the coal and steel industries, by the application of the present Treaty, subject to the following provisions:

2. If the High Authority notes that abnormally low prices practised by one or several enterprises are the results of wages fixed by these enterprises at an abnormally low level in comparison with the actual wage level in the same region, it shall make the necessary recommendations to the interested enterprises after consulting the Consultative Committee. If the abnormally low wages are the result of governmental decisions, the High Authority shall enter into consultation with the interested government; in the absence of agreement and after consulting the Consultative Committee; it may issue a recommendation to the government concerned.

3. If the High Authority finds that a lowering of wages is leading to a drop in the standard of living of the labor force and at the same time is being used as

a means of permanent economic adjustment by enterprises or as a weapon of competition among enterprises, it shall address to the enterprise or government concerned, after consulting the Consultative Committee, a recommendation intended to assure the labor force of compensatory benefits to be paid for by the enterprise in question.

This provision shall not apply to:

(a) overall measures taken by a member State to re-establish its external equilibrium, without prejudice in this latter case to the possible application of the provisions of Article 67;

(b) wage decreases resulting from the application of the sliding scale legally or contractually established;

(c) wage decreases brought about by a decrease in the cost of living;

(d) wage decreases to correct abnormal increases previously granted under exceptional circumstances no longer in existence.

4. With the exception of the cases provided for in paragraphs (a) and (b) of the above section, any wage decrease affecting the whole labor force of an enterprise or a sizeable fraction thereof shall be reported to the High Authority.

5. The recommendations provided for in the above sections may be made by the High Authority only after consultation with the Council; such consultation shall not be necessary, however, in the case of recommendations addressed to enterprises smaller than a minimum size to be defined by the High Authority in agreement with the Council.

If, in one of the member States, a modification of the provisions relative to the financing of social security or of the measures for combatting unemployment and the effects thereof, or a variation in wages, produces the effects referred to in Article 67, Sections 2 and 3, the High Authority shall be empowered to apply the provisions of Article 67.

6. If an enterprise should fail to conform to a recommendation made to it by virtue of the present article, the High Authority may impose on it fines and daily penalty payments not to exceed twice the amount of the savings in labor costs unjustifiably effected.

ARTICLE 69. 1. The member States bind themselves to renounce any restriction based on nationality against the employment in the coal and steel industries of workers of proven qualifications for such industries who possess the nationality of one of the member States; this commitment shall be subject to the limitations imposed by the fundamental needs of health and public order.

2. In order to apply these provisions, the member States will work out a common definition of specialties and conditions of qualification, and will determine by common agreement the limitations provided for in the preceding paragraph. They will also work out technical procedures to make it possible to bring together offers of and demands for employment in the Community as a whole.

3. In addition, for the categories of workers not falling within the provisions of the preceding paragraph and where an expansion of production in the coal and steel industries might be hampered by a shortage of qualified labor, they

will adapt their immigration regulations to the extent necessary to eliminate that situation; in particular, they will facilitate the reemployment of workers from the coal and steel industries of other member States.

4. They will prohibit any discrimination in remuneration and working conditions between national workers and immigrant workers, without prejudice to special measures concerning frontier workers; in particular, they will work out among themselves any arrangements necessary so that social security measures do not stand in the way of the movement of labor.

5. The High Authority shall guide and facilitate the application by the member States of the measures taken by virtue of the present article.

6. The present article shall not interfere with the international obligations of the member States.

Chapter IX—Transport

ARTICLE 70. It is recognized that the establishment of the common market requires the application of such transport rates for coal and steel as will make possible comparable price conditions to consumers in comparable positions.

For traffic among the member States, discriminations in transport rates and conditions of any kind, based on the country of origin or of destination of the products in question, are particularly forbidden. The suppression of these discriminations involves in particular the obligations to apply to the transport of coal and steel, originating in or destined for another country of the Community, the rate scales, prices and tariff provisions of all types applicable to internal transport of the same merchandise over the same route.

The rate scales, prices, and tariff provisions of all sorts applied to the transport of coal and steel within each member State and among the member States shall be published or brought to the knowledge of the High Authority.

The application of special internal tariff measures in the interest of one or several coal- or steel-producing enterprises is subject to the prior agreement of the High Authority, which will assure itself that such measures conform to the principles of the present Treaty; it may give a temporary or conditional agreement.

Subject to the provisions of the present article, as well as to the other provisions of the present Treaty, commercial policy for transport, particularly the establishment and modification of rates and conditions of transport of any type as well as the arrangement of transport costs required to assure the financial equilibrium of the transport enterprises themselves, remains subject to the legislative or regulatory provisions of each of the member States; the same is true for the measures of coordination or competition among different means of transport or among different routes.

Chapter X—Commercial Policy

ARTICLE 71. Unless otherwise stipulated in the present Treaty, the competence of the governments of the member States with respect to commercial policy shall not be affected by application of the present Treaty.

The powers granted to the Community by the present Treaty concerning commercial policy towards third countries shall not exceed the powers which the member States are free to exercise under the international agreements to which they are parties, subject to the application of the provisions of Article 75.

The governments of the member States will lend each other the necessary assistance in the application of measures recognized by the High Authority as in conformity with the present Treaty and with international agreements in effect. The High Authority may propose to the member States concerned the methods by which this mutual assistance shall be undertaken.

ARTICLE 72. Minimum rates, below which the member States are bound not to lower their customs duties on coal and steel with regard to third countries, and maximum rates, above which they are bound not to raise such duties, may be fixed by unanimous decision of the Council upon the proposal of the High Authority, which may act on its own initiative or at the request of a member State.

Between the limits fixed by the said decision, each government will set its tariffs according to its national procedure. The High Authority may, on its own initiative or at the request of one of the member States, issue an opinion suggesting the modification of the tariffs of such participating country.

ARTICLE 73. The administration of import and export licensing in relations with third countries shall be the responsibility of the government on the territory of which is located the point of origin for exports or the point of destination for imports.

The High Authority is empowered to supervise the administration and control of such licensing where coal and steel are concerned. After consulting the Council, it will address recommendations to the member States wherever necessary in order either to prevent the measures adopted from having a more restrictive character than is required by the situation justifying their establishment or maintenance, or to insure coordination of measures taken in compliance with the third paragraph of Article 71 and Article 74.

ARTICLE 74. In the cases enumerated below, the High Authority is empowered to take all measures in conformity with the present Treaty, in particular with the objectives defined in Article 3, and to make any recommendations to the governments which do not violate the provisions of the second paragraph of Article 71:

(1) if it is established that countries not members of the Community, or enterprises situated in such countries, are engaging in dumping operations or other practices condemned by the Havana Charter;

(2) if a difference between the offers made by enterprises outside the jurisdiction of the Community and those made by enterprises within its jurisdiction is due exclusively to the fact that those of the former are based on competitive conditions contrary to the provisions of the present Treaty;

(3) if one of the products enumerated in Article 81 of the present Treaty is imported into the territory of one or several of the member States of the Community in relatively increased quantities and under such conditions that these

imports inflict or threaten to inflict serious damage on production, within the common market, of similar or directly competitive products.

However, recommendations for the establishment of quantitative restrictions may be issued: in the case cited in paragraph (2) above, only with the concurrence of the Council; and in the case cited in paragraph (3) above, only under the conditions set forth in Article 58.

ARTICLE 75. The member States bind themselves to keep the High Authority informed of proposed commercial agreements or arrangements to the extent that such agreements relate to coal, steel or the importation of other raw materials and of specialized equipment necessary to the production of coal and steel in the member States.

If a proposed agreement or arrangement should contain clauses interfering with the application of the present Treaty, the High Authority will address the necessary recommendations to the interested State within a period of ten days from the receipt of the communication made to it; it may in any other case issue opinions.

TITLE FOUR—GENERAL PROVISIONS

ARTICLE 76. Under the conditions set forth in an annexed Protocol, the Community shall enjoy on the territory of the member States the privileges and immunities necessary to the exercise of its functions.

ARTICLE 77. The seat of the institutions of the Community shall be fixed by common agreement of the governments of the member States.

ARTICLE 78. 1. The fiscal year of the Community shall extend from July 1 to June 30.

2. The administrative expenditures of the Community include the expenditures of the High Authority, including those pertaining to the functioning of the Consultative Committee, and those of the Court, of the Secretariat of the Assembly and of the Secretariat of the Council.

3. Each one of the institutions of the Community shall draw up an estimate of its administrative expenditures, broken down into articles and chapters.

However, the number of employees and the scales of salaries, allowances and pensions, to the extent that they are not fixed by virtue of another provision of the Treaty or an implementing regulation, as well as extraordinary expenditures, shall be determined in advance by a Commission composed of the President of the Court, the President of the High Authority, the President of the Assembly and the President of the Council. The President of the Court shall preside over this Commission.

The Commission of Presidents provided for in the preceding paragraph shall group the estimates of expenditures in a general estimate which will include a special section for the expenditures of each institution.

The adoption of this general estimate shall have the effect of authorizing and obligating the High Authority to collect the corresponding receipts in accordance with the provisions of Article 49. The High Authority shall place the funds estimated as required for the functioning of each of the institutions at the

disposal of the President of that institution, who may proceed or give instructions to proceed with the commitment or the settlement of expenditures.

The Commission of Presidents may authorize transfers within chapters and from one chapter to another.

4. The general estimate shall be included in the annual report presented by the High Authority to the Assembly under the provisions of Article 17.

5. If the operations of the High Authority or of the Court make it necessary, the respective President may present to the Commission of Presidents a supplementary estimate, subject to the same rules as the general estimate.

6. The Council shall appoint an Auditor to serve for three years. His term may be renewed. He shall exercise his functions in complete independence. The Auditor may not hold any other post in any institution or agency of the Community.

The Auditor shall make an annual report on the regularity of the accounting operations and of the financial management of the various institutions. He shall make this report within six months following the end of the fiscal year to which the accounts pertain, and shall communicate it to the Commission of Presidents.

The High Authority shall transmit this report to the Assembly at the same time as the report provided for in Article 17 of the Treaty.

ARTICLE 79. The present Treaty is applicable to the European territories of the member States. It is also applicable to those European territories whose foreign relations are assumed by a member State; and exchange of letters between the government of the German Federal Republic and the government of the French Republic concerning the Saar is annexed to the present Treaty.

Each High Contracting Party binds itself to extend to the other member States the preferential measures which it enjoys with respect to coal and steel in the non-European territories subject to its jurisdiction.

ARTICLE 80. The term "enterprise", as used in the present Treaty, refers to any enterprise engaged in production in the field of coal and steel within the territories mentioned in the first paragraph of Article 79; and in addition, as concerns Articles 65 and 66 as well as information required for their application and appeals based upon them, to any enterprise or organization regularly engaged in distribution other than sale to domestic consumers or to artisan industries.

ARTICLE 81. The terms "coal" and "steel" are defined in Annex I to the present Treaty.

Additions may be made to the lists set forth in this annex by unanimous decision of the Council.

ARTICLE 82. The turnover which shall serve as basis for the calculation of the fines and daily penalty payments applicable to enterprises by virtue of the present Treaty shall be the turnover on the products subject to the jurisdiction of the High Authority.

ARTICLE 83. The establishment of the Community does not in any way prejudice the regime of ownership of the enterprises subject to the provisions of the present Treaty.

ARTICLE 84. In the provisions of the present Treaty, the words "present Treaty" shall be understood as referring to the clauses of the said Treaty and its annexes, of the annexed Protocols, and of the Convention containing the Transitional Provisions.

ARTICLE 85. The initial and transitional measures agreed upon by the High Contracting Parties with a view to permitting the application of the provisions of the present Treaty are set forth in an annexed Convention.

ARTICLE 86. The member States bind themselves to take all general and specific measures which will assure the execution of their obligations under the decisions and recommendations of the institutions of the Community, and facilitate the accomplishment of the Community's purposes.

The member States bind themselves to refrain from any measures which are incompatible with the existence of the common market referred to in Articles 1 and 4.

To the extent of their competence, the member States will take all appropriate measures to assure the international payments arising out of trade in coal and steel within the common market; they will lend assistance to each other to facilitate such payments.

Officials of the High Authority charged with verifying information shall enjoy on the territories of the member States, to the extent necessary for the accomplishment of their mission, such rights and powers as are granted by the laws of such States to officials of its own tax services. The missions and the status of the officials charged with them shall be duly communicated to the State in question. Officials of such State may, at the request of such State or of the High Authority, assist those of the High Authority in carrying out their mission.

ARTICLE 87. The High Contracting Parties agree not to avail themselves of any treaties, conventions or agreements existing among them to submit any difference arising out of the interpretation or application of the present Treaty to a method of settlement other than those provided for herein.

ARTICLE 88. If the High Authority deems that a State is delinquent with respect to one of the obligations incumbent upon it by virtue of the present Treaty, it will, after permitting the State in question to present its views, take note of the delinquency in a decision accompanied by a justification. It will allow the State in question a period of time within which to provide for the execution of its obligation.

Such State may appeal to the Court's plenary jurisdiction within a period of two months from the notification of the decision.

If the State has not taken steps for the fulfillment of its obligation within the period fixed by the High Authority, or if its appeal has been rejected, the High Authority may, with the concurrence of the Council acting by a 2/3 majority:

(a) suspend the payment of sums which the High Authority may owe to the State in question under the present Treaty;

(b) adopt measures or authorize the other member States to adopt measures

involving an exception to the provisions of Article 4, so as to correct the effects of the delinquency in question.

An appeal to the Court's plenary jurisdiction may be brought against the decisions taken in application of paragraphs (a) and (b) within two months following their notification.

If these measures should prove inoperative, the High Authority will lay the matter before the Council.

ARTICLE 89. Any dispute among member States concerning the application of the present Treaty, which cannot be settled by another procedure provided for in the present Treaty, may be submitted to the Court at the request of one of the States parties to the dispute.

The Court shall also have jurisdiction to settle any dispute among member States related to the purpose of the present Treaty, if such dispute is submitted to it by virtue of an agreement to arbitrate.

ARTICLE 90. If an act committed by an enterprise in violation of the present Treaty also constitutes a violation of an obligation under the legislation of the State to which the enterprise in question is subject, and if legal or administrative action is instituted against the enterprise in question under such legislation, the State in question shall so inform the High Authority, which may suspend action in the premises.

If the High Authority suspends action, it shall be kept informed of the status of the proceedings and permitted to produce any pertinent documents, expert advice and evidence. It shall also be informed of the final decision taken in the case, and shall take account of this decision in determining any sanctions which it may be led to pronounce.

ARTICLE 91. If an enterprise does not make within the prescribed time-limit a payment for which it is liable to the High Authority either by virtue of a provision of the present Treaty or the agreements in application thereof or by virtue of a fine or a daily penalty payment imposed by the High Authority, the latter may suspend settlement of sums due by the High Authority to the said enterprise up to the amount of the payment in question.

ARTICLE 92. The decisions of the High Authority imposing financial obligations on enterprises are executory.

They shall be enforced on the territory of member States through the legal procedures in effect in each of these States, after the writ of execution in use in the State on the territory of which the decision is to be carried out has been placed upon them; this shall be done with no other formality than the certification of the authenticity of such decisions. The execution of these formalities shall be the responsibility of a Minister which each of the governments shall designate for this purpose.

Enforcement of such decisions can be suspended only by a decision of the Court.

ARTICLE 93. The High Authority will maintain whatever relationships appear useful with the United Nations and the Organization for European Economic

Cooperation, and will keep these organizations regularly informed of the activity of the Community.

ARTICLE 94. The relations of the institutions of the Community with the Council of Europe will be assured under the terms of an annexed Protocol.

ARTICLE 95. In all cases not expressly provided for in the present Treaty in which a decision or a recommendation of the High Authority appears necessary to fulfill, in the operation of the common market for coal and steel and in accordance with the provisions of Article 5 above, one of the purposes of the Community as defined in Articles 2, 3 and 4, such decision or recommendation may be taken subject to the unanimous concurrence of the Council and after consultation with the Consultative Committee.

The same decision or recommendation, taken in the same manner, shall fix any sanctions to be applied.

If, following the expiration of the transition period provided for by the Convention containing the transitional provisions, unforeseen difficulties which are brought out by experience in the means of application of the present Treaty, or a profound change in the economic or technical conditions which affects the common coal and steel market directly, should make necessary an adaptation of the rules concerning the exercise by the High Authority of the powers which are conferred upon it, appropriate modifications may be made provided that they do not modify the provisions of Articles 2, 3 and 4, or the relationship among the powers of the High Authority and the other institutions of the Community.

These modifications will be proposed jointly by the High Authority and the Council acting by a five-sixths majority. They shall then be submitted to the opinion of the Court. In its examination, the Court may look into all elements of law and fact. If the Court should recognize that they conform to the provisions of the preceding paragraph, such proposals shall be transmitted to the Assembly. They will enter into force if they are approved by the Assembly acting by a majority of three-quarters of the members present and voting comprising two-thirds of the total membership.

ARTICLE 96. Following the expiration of the transition period, the government of each member State and the High Authority may propose amendments to the present Treaty. Such proposals will be submitted to the Council. If the Council, acting by a two-thirds majority, approves a conference of representatives of the governments of the member States, such a conference shall be immediately convoked by the President of the Council, with a view to agreeing on any modifications to be made in the provisions of the Treaty.

Such amendments will enter into force after having been ratified by all of the member States in conformity with their respective constitutional rules.

ARTICLE 97. The present Treaty is concluded for a period of fifty years from the date of its entry into force.

ARTICLE 98. Any European State may request to accede to the present Treaty. It shall address its request to the Council, which shall act by unanimous vote after having obtained the opinion of the High Authority. Also, by a unanimous vote, the Council shall fix the terms of accession. It shall become effective on

the day the instrument of accession is received by the government acting as depository of the Treaty.

ARTICLE 99. The present Treaty shall be ratified by all the member States in accordance with their respective constitutional rules; the instruments of ratification shall be deposited with the Government of the French Republic.

The Treaty shall enter into force on the date of the deposit of the instrument of ratification of the last signatory nation to accomplish that formality.

In the event that all the instruments of ratification have not been deposited within a period of six months following the signature of the present Treaty, the governments of the States which have effected such deposit will consult among themselves on the measures to be taken.

ARTICLE 100. The present Treaty, drawn up in a single copy, shall be deposited in the archives of the Government of the French Republic, which shall transmit a certified copy thereof to each of the governments of the other signatory States.

IN WITNESS WHEREOF the undersigned Plenipotentiaries have placed their signatures and seals at the end of the present Treaty.

DONE at Paris, the eighteenth of April one thousand nine hundred and fifty-one.

2. Protocol on the Privileges and Immunities of the Community

The High Contracting Parties:

Considering that, under the terms of Article 76 of the Treaty, the Community will enjoy on the territories of the member States the immunities and privileges necessary to the fulfillment of its mission under the conditions provided for in an annexed Protocol;

Have agreed to the following:

Chapter I—Property, Funds and Assets

ARTICLE 1. The premises and buildings of the Community shall be inviolable. They shall be exempt from search, requisition, confiscation or expropriation. the property and assets of the Community may not be the object of any administrative or judicial measure of constraint without the authorization of the Court.

ARTICLE 2. The archives of the Community are inviolable.

ARTICLE 3. The Community may hold any kind of currency and have accounts in any kind of money.

ARTICLE 4. The Community, its assets, income and other properties are exempt from:

(a) all direct taxes; however, the Community will not request exemption from such taxes, charges and duties as constitute only direct remuneration for public utility services;

(b) all customs duties, prohibitions and restrictions on imports and exports with respect to articles intended for its official use; articles thus imported free of duty shall not be sold on the territory of the country into which they shall have been imported except under conditions agreed to by the government of such country;

(c) all customs duties and all prohibitions and restrictions on imports and exports with respect to its publications.

Chapter II—Communications and Travel Documents

ARTICLE 5. For their official communications, the institutions of the Community shall enjoy on the territory of each member State the treatment granted by that State to diplomatic missions.

Official correspondence and other official communications of the institutions of the Community shall not be subject to censorship.

ARTICLE 6. The President of the High Authority will issue *laissez-passer* to the members of the High Authority and to the higher officials of the institutions of the Community. These passes shall be recognized as valid travel documents by the authorities of the member States.

Chapter III—Members of the Assembly

ARTICLE 7. No restrictions of an administrative or other nature shall be placed on the free travel of members of the Assembly proceeding to or coming from the place of meeting of the Assembly.

As concerns customs and exchange control, members of the Assembly shall be granted:

(a) by their own governments, the facilities granted to high officials proceeding abroad on temporary official missions;

(b) by the governments of the other member States, the facilities granted to representatives of foreign governments on temporary official missions.

ARTICLE 8. Members of the Assembly may not be examined, held or prosecuted by reason of opinions or votes expressed by them in the exercise of their functions.

ARTICLE 9. During the sessions of the Assembly, its members shall enjoy:

(a) on their national territory, the immunity granted to members of the Parliament of their country;

(b) on the territory of any other member State, exemption from all measures of detention and from any legal prosecution.

They shall likewise be covered by such immunity when proceeding to or returning from the place of meeting of the Assembly. Such immunity may not be invoked in the case of *flagrante delicto*, nor may it hinder the right of the Assembly to waive the immunity of any of its members.

Chapter IV—Representatives in the Council

ARTICLE 10. Representatives in the Council and persons accompanying them officially shall enjoy, during the exercise of their functions and during their travel to or from the place of meeting, the customary privileges and immunities.

Chapter V—Members of the High Authority and Officials of the Institutions of the Community

ARTICLE 11. On the territory of each of the member States, and regardless of their nationality, the members of the High Authority and officials of the Community:

(a) shall enjoy, subject to the provisions of the second paragraph of Article 40 of the Treaty, immunity from legal action for acts performed by them in their official capacity, including their speeches and writings; this immunity shall continue after their functions have ceased;

(b) shall be exempt from any tax on salaries or emoluments paid by the Community;

(c) shall be exempt, along with their spouses and the dependent members of their families, from regulations limiting immigration and from the formalities for the registration of foreigners;

(d) shall enjoy the right to import their personal property and effects free of duty at the time they initially assume their functions in the country in question, and to re-export such property and effects free of duty to their country of residence when their functions cease.

ARTICLE 12. The President of the High Authority shall determine the classes of officials to which the provisions of the present Chapter shall apply. He shall submit the list thereof to the Council and then communicate it to the governments of all the member States. The names of the officials included in such classes shall be communicated periodically to the governments of the member States.

ARTICLE 13. Privileges, immunities and facilities are granted to members of the High Authority and to officials of the institutions of the Community solely in the interest of the Community.

The President of the High Authority shall be required to waive the immunity granted to an official in any case where he deems that the waiver of such immunity is not contrary to the interests of the Community.

Chapter VI—General Provisions

ARTICLE 14. The High Authority may conclude, with one or several member States, complementary agreements adjusting the provisions of the present Protocol.

ARTICLE 15. The privileges, immunities and facilities granted to the judges, clerk and personnel of the Court shall be governed by its code.

ARTICLE 16. Any dispute concerning the interpretation or application of the present Protocol shall be submitted to the Court.

DONE at Paris, the eighteenth of April, one thousand nine hundred and fifty-one.

3. Protocol on the Statute of the Court of Justice

The High Contracting Parties:

Desirous of establishing the Statute of the Court of Justice provided by Article 45 of the Treaty,

Have agreed as follows:

ARTICLE 1. The Court of Justice established by Article 7 of the Treaty shall be constituted and shall perform its duties in accordance with the provisions of the Treaty and of the present Statute.

TITLE I—THE JUDGES

Oath of Office

ARTICLE 2. Before commencing his duties, each judge shall take a public oath to discharge his duties conscientiously and with complete impartiality and to preserve the secrecy of the Court's deliberations.

Privileges and Immunities

ARTICLE 3. The judges shall enjoy legal immunity. They shall retain this immunity after their term of office for all acts performed by them in their official capacity including their statements and writings.

The Court, sitting en banc, may suspend this immunity.

Only the courts with jurisdiction over the highest members of the national judiciary in each member State shall have jurisdiction in criminal proceedings against judges whose immunity has been so suspended.

The judges, without regard to their nationality, shall also enjoy within the territory of each member State the privileges enumerated in paragraphs (b), (c), and (d) of Article 11 of the Protocol on the privileges and immunities of the Community.

Conflicts of Interest

ARTICLE 4. Judges may not hold any political or administrative office.

They may not engage in any business or professional activity, paid or unpaid, except by specific exemption granted by a two-thirds majority of the Council.

They may not acquire or hold, directly or indirectly, any interest in any business related to coal or steel during their term of office and during a period of three years thereafter.

Remuneration

ARTICLE 5. The salaries, allowances and pensions of the President and the judges shall be fixed by the Council on the proposal of the Commission provided by paragraph 3 of Article 78 of the Treaty.

Termination of Office

ARTICLE 6. In addition to the provisions for regular changes in membership, the term of office of any judge shall be terminated by death or resignation.

In case of resignation, the letter of resignation shall be addressed to the President of the Court for transmission to the President of the Council. The latter notification shall cause such office to become vacant.

Except for instances in which Article 7 below shall be applicable, each judge shall continue to hold office until his successor shall enter upon his duties.

ARTICLE 7. The judges may be removed from office only if, in the unanimous opinion of the other members of the Court, they no longer fulfill the requisite conditions thereof.

The President of the Council, the President of the High Authority and the President of the Assembly shall be notified thereof by the clerk.

Such notification shall cause such office to become vacant.

ARTICLE 8. A judge who is appointed to replace a member whose term of office has not expired, shall finish the term of office of his predecessor.

TITLE II—ORGANIZATION

ARTICLE 9. The judges, the Court advocates and the clerks must reside at the seat of the Court.

ARTICLE 10. The Court shall be assisted by two Court advocates and one clerk.

Court Advocates

ARTICLE 11. The function of the Court advocates shall be to present publicly and with complete impartiality and independence oral reasoned arguments of the cases submitted to the Court, in order to assist the Court in the performance of its duties, as defined in Article 31 of the Treaty.

ARTICLE 12. The Court advocates shall be appointed for a term of six years in the same manner as judges. There shall be a partial change in membership every three years. The Court advocate whose term expires at the end of the first period of three years shall be designated by lot. The provisions of the third and fourth paragraphs of Article 32 of the Treaty and the provisions of Article 6 of the present Statute shall be applicable to the Court advocates.

ARTICLE 13. The provisions of Articles 2 to 5 and 8 above shall be applicable to the Court advocates.

The Court advocates may be removed from office only if they no longer fulfil the requisite conditions thereof. This decision shall be taken by unanimous vote of the Council, upon the advice of the Court.

Clerk

ARTICLE 14. The clerk shall be appointed by the Court, which will fix the rules of his office according to the provisions of Article 15 below. He shall take an oath before the Court to discharge his duties conscientiously and with complete impartiality and to preserve the secrecy of the Court's deliberations.

The provisions of Articles 11 and 13 of the Protocol on the privileges and immunities of the Community shall be applicable to the clerk; however, the powers conferred by such Articles on the President of the High Authority shall be exercised by the President of the Court.

ARTICLE 15. The salaries, compensations and pensions of the clerk shall be fixed by the Council on the proposal of the Commission, provided by Paragraph 3 of Article 78 of the Treaty.

Personnel of the Court

ARTICLE 16. The Court shall have functionaries or employees to permit the performance of its duties. They shall be directed by the clerk, under the general supervision of the President. Their rules of office shall be fixed by the Court. The Court shall designate one of them to act as alternate for the clerk in the event of the latter's absence or incapacity.

In cases of necessity, and in accordance with the conditions to be fixed by the rules of procedure provided in Article 44 below, qualified special masters may be asked to participate in the examination of cases pending before the Court and to cooperate with the reporting judge. Their rules of office shall be fixed by the Council on proposal by the Court. They shall be appointed by the Council.

The provisions of Articles 11, 12 and 13 of the Protocol on the privileges and immunities of the Community are applicable to the functionaries, employees and special masters of the Court; however, the powers conferred by such Articles on the President of the High Authority shall be exercised by the President of the Court.

Functioning of the Court

ARTICLE 17. The Court shall sit permanently. The length of its judicial recesses shall be fixed by the Court, with due regard for its judicial obligations.

Composition of the Court

ARTICLE 18. The Court shall sit en banc. However, the Court may establish within its own membership two divisions composed of three members each, in order to conduct preliminary examinations or to decide certain categories of cases, under the conditions provided by rules which the Court shall establish to that effect.

The Court shall only validly sit with an uneven number of members. The deliberations of the Court sitting en banc are valid if five members are present. The deliberations of the divisions are valid only if they are conducted by three judges: in the event of the absence or incapacity of one of the judges of the division, a judge of the other division may be asked to sit, in accordance with conditions which shall be established by the rules provided hereunder.

Appeals by States or by the Council shall, in all cases be decided en banc.

Special Rules

ARTICLE 19. The judges and the Court advocates may not participate in the disposition of any case in which they have previously participated as a representative, counsel or advocate of one of the parties, or as to which they have been called upon to render judgment as a member of a tribunal, of a commission of inquiry or in any other capacity.

If any judge or Court advocate, for a special reason, deems improper his participation in the judgment or the examination of a particular case, he shall so notify the President. If the President, for a special reason, deems it improper for a member of the Court or a Court advocate to sit or argue in a particular case, he shall so notify the person affected.

The Court shall resolve any difficulties arising from the application of the present Article.

A party may not invoke the nationality of a judge, or the absence from the bench or from one division of a judge of its own nationality, in order to ask a change in the composition of the Court or of one of its divisions.

TITLE III—PROCEDURE

Representation and Appearances of the Parties

ARTICLE 20. The States and the different institutions of the Community shall be represented before the Court by representatives appointed for each case; the representative may be assisted by an advocate admitted to the bar of one of the member States.

Enterprises and all other individuals or legal entities must be represented by an advocate admitted to the bar of one of the member States.

The representatives and advocates appearing before the Court shall have the rights and guarantees necessary for the independent performance of their duties, under the conditions fixed in rules to be established by the Court and submitted to the approval of the Council.

The Court shall have, with respect to the advocates who appear before it, the powers normally recognized in this regard to courts and tribunals, under the conditions fixed by the same rules.

Professors of the member States whose national law allows them to plead shall have the same rights before the Court as are recognized to advocates by the present Article.

Phases of Procedure

ARTICLE 21. The procedure before the Court shall be composed of two phases: written and oral.

The written procedure shall include communications to the parties, as well as to the institutions of the Community whose decisions are in dispute, petitions, memoranda, defenses and observations and answers, if any, as well as all documentary evidence and supporting papers or certified copies thereof.

Notices shall be served by the clerk in the sequence and within the time intervals fixed by the rules of procedure.

The oral procedure shall include the reading of the report presented by the reporting judge, as well as the hearing by the Court of witnesses, experts, representatives and advocates and the arguments of the Court advocate.

Petitions

ARTICLE 22. Matters shall be referred to the Court by a petition addressed to the clerk. The petition must contain the name and the domicile of the party and the capacity of the signer, the subject-matter of the dispute, the arguments and a short summary of the grounds on which the petition is based.

This petition must be accompanied, where appropriate, by the decision whose annulment is asked, or, in the case of an appeal against an implicit decision, by documentary evidence showing the date of filing of the request. If these documents are not annexed to the petition, the clerk shall ask the party in question to produce them within a reasonable period of time, and there shall be no foreclosure if compliance occurs after the time for appeal has elapsed.

Transmittal of Documents

ARTICLE 23. When an appeal is taken against a decision of one of the institutions of the Community, such institution must transmit to the Court all the documents relating to the case before the Court.

Methods of Examination

ARTICLE 24. The Court may ask the parties, their representatives or officials and employees, as well as the governments of the Member States, to produce all documents and furnish all information which the Court deems desirable. In case of refusal, the Court shall take judicial notice thereof.

ARTICLE 25. The Court may at any time charge any person, body, office, commission or organ of its own choice with the duty of making a formal inquiry or expert study; to this effect, the Court may draw up a list of persons or organizations qualified to serve as experts.

Publicity of the Hearings

ARTICLE 26. The hearings shall be public, unless the Court, for substantial reasons, shall decide otherwise.

Reports of the Hearings

ARTICLE 27. A report shall be kept of each hearing, signed by the President and the clerk.

Hearings

ARTICLE 28. The President shall fix the schedule of the hearings.

Witnesses may be heard under the conditions which shall be determined by the rules of procedure. They may be heard under oath.

During the hearings, the Court may also examine the experts and persons charged with a formal inquiry, as well as the parties themselves; the latter, however, may only plead through their representative or advocate.

When it is established that a witness or an expert has concealed or falsified the truth as to the facts on which he has testified or has been examined by the Court, the Court shall be empowered to refer such misfeasance to the Minister of Justice of the State of such witness or expert, for the application of the appropriate sanctions provided by the national law.

The Court shall have, with respect to defaulting witnesses, the powers which are generally recognized in this regard to courts and tribunals, under the conditions fixed by rules established by the Court and submitted to the approval of the Council.

Secrecy of Judicial Deliberations

ARTICLE 29. The Court's deliberations shall be and shall remain secret.

Judgments

ARTICLE 30. Judgments shall set forth the reasons therefor. They shall state the names of the judges who have participated therein.

ARTICLE 31. Judgments shall be signed by the President, the reporting judge and the clerk. They shall be read in public session.

Costs

ARTICLE 32. Costs shall be determined by the Court.

Summary Procedure

ARTICLE 33. The President of the Court may make summary rulings, in accordance with a procedure to be established by the rules of procedure and in derogation, to the extent necessary, of certain provisions of the present Statute, upon arguments for the granting of suspension of execution provided in the second paragraph of Article 39 of the Treaty, or for the application of provisional measures under the third paragraph of the same Article, or for the suspension of compulsory execution in accordance with the third paragraph of Article 92.

In the event of the absence or incapacity of the President, he shall be replaced by another judge under the conditions fixed by the rules provided in Article 18 of the present Statute. The ruling of the President or his alternate shall be provisional in nature and shall not prejudice in any way the decision of the Court on the matter in its entirety.

Intervention

ARTICLE 34. Individuals or legal entities establishing an interest in the outcome of a dispute pending before the Court may intervene in such dispute.

The arguments in favor of a petition for intervention may be directed only to the affirmation or dismissal of the arguments of a party.

Judgment by Default

ARTICLE 35. When, in an appeal to the Court's general jurisdiction, the defendant is duly summoned and fails to file written arguments, default judgment shall be rendered against him. This judgment may be contested within a month from the date of the notification of the judgment. Such proceeding shall not suspend the execution of the default judgment, unless otherwise decided by the Court.

Contest by Third Parties

ARTICLE 36. Individuals or legal entities, as well as institutions of the Community, may institute third-party proceedings to contest judgments which have been rendered without notification to them, in the cases and under the conditions to be fixed by the rules of procedure.

Interpretation

ARTICLE 37. In case of difficulty as to the meaning or scope of a judgment, such judgment shall be interpreted by the Court upon the request of any party or any institution of the Community establishing an interest therein.

Reconsideration

ARTICLE 38. The Court may be asked to reconsider a judgment only on grounds of discovery of a fact susceptible of exerting a decisive influence thereon, which was unknown to the Court and to the party requesting such reconsideration prior to the rendering of such judgment.

The reconsideration procedure shall commence with a judgment of the Court explicitly setting forth the existence of a new fact, finding therein the characteristics giving rise to reconsideration, and holding the request for reconsideration admissible for this reason.

No request for reconsideration may be introduced after the expiration of a period of ten years from the date of the judgment.

Time Limits

ARTICLE 39. The appeals provided by Articles 36 and 37 of the Treaty must be taken within the period of one month provided in the last paragraph of Article 33.

The periods of time based upon distance shall be fixed by the rules of procedure.

There shall be no loss of rights by reason of the expiration of time periods if the party in question proves the existence of an Act of God or force majeure.

Limitations

ARTICLE 40. The proceedings provided in the first two paragraphs of Article 40 of the Treaty must be instituted within five years from the date of the occurrence of the circumstance giving rise thereto. This limitation shall be tolled either by the petition to the Court or by the previous request which the aggrieved may direct to the competent institution of the Community. In this last case, the petition must be filed within the period of one month provided in the last paragraph of Article 33; the provisions of the last paragraph of Article 35 shall be applicable where appropriate.

Special Rules for Dispute Between Member States

ARTICLE 41. When a dispute between member States is submitted to the Court, under Article 89 of the Treaty, the other member States shall be notified forthwith of the subject matter of such dispute.

Each of the States shall have the right to intervene in the proceeding.

The disputes referred in the present Article must be adjudged by the Court *en banc*.

ARTICLE 42. If a State intervenes in a case submitted to the Court under the conditions provided in the preceding Article, the interpretation given by the judgment shall also be binding on it.

Appeals by Third Parties

ARTICLE 43. The decisions of the High Authority under Section 2 of Article 63 of the Treaty must be notified to the buyer as well as to the enterprises in question; if the decision refers to all or an important category of enterprises, such individual notification may be replaced by publication.

An appeal may be taken, under the conditions in Article 36 of the Treaty, by any person on whom a daily penalty judgment has been levied in application of paragraph 4 of Section 5 of Article 66.

Rules of Procedure

ARTICLE 44. The Court shall establish its own rules of procedure. These rules shall contain all the provisions necessary for the application and, where necessary, the complementation of the present Statute.

Transitory Provision

ARTICLE 45. Immediately after the taking of the oath, the President of the Council shall proceed to designate by lot the judges and the Court advocates whose term shall expire at the end of the first period of three years in accordance with Article 32 of the Treaty.

DONE in Paris, the eighteen of April, one thousand nine hundred and fifty-one.

4. Protocol Concerning Relations With the Council of Europe

The High Contracting Parties:

Fully aware of the need to establish ties as close as possible between the European Coal and Steel Community and the Council of Europe, particularly between the two Assemblies;

Taking note of the recommendations of the Council of Europe;
Have agreed to the following provisions:

ARTICLE 1. The governments of the member States are invited to recommend to their respective Parliaments that the members of the Assembly, which these Parliaments are called upon to designate, should preferably be chosen from among the representatives of the Consultative Assembly of the Council of Europe.

ARTICLE 2. The Assembly of the Community will forward annually to the Consultative Assembly of the Council of Europe a report on its activity.

ARTICLE 3. The High Authority will communicate each year to the Committee of Ministers and to the Consultative Assembly of the Council of Europe the general report provided for in Article 17 of the Treaty.

ARTICLE 4. The High Authority will inform the Council of Europe of the action which it has been able to take on any recommendations which the Committee of Ministers of the Council of Europe might have addressed to it under Article 15 (b) of the Statute of the Council of Europe.

ARTICLE 5. The present Treaty and its Annexes will be registered with the General Secretariat of the Council of Europe.

ARTICLE 6. Agreements between the Community and the Council of Europe may, among other things, provide for any other type of mutual assistance and collaboration between the two organizations, and the appropriate forms thereof.

DONE at Paris, the eighteenth of April, one thousand nine hundred and fifty-one.

5. Exchange of Letters Concerning the Saar

The Federal Chancellor and Minister of Foreign Affairs of the Federal Republic of Germany to the French Minister for Foreign Affairs [Translation]

PARIS, April 18, 1951.

Mr. PRESIDENT,

The representatives of the Federal Government have declared on several occasions during the negotiations concerning the European Coal and Steel Community that the definitive settlement of the status of the Saar could only be made by the Treaty of Peace or a similar Treaty. During the negotiations they have also declared that in signing the Treaty the Federal Government does not in any way express its recognition of the present status of the Saar.

I repeat this declaration and request you to confirm that the French Government is in agreement with the Federal Government as to the fact that the definitive settlement of the status of the Saar can be made only by the Treaty of Peace or by a similar Treaty, and that the French Government does not consider the signature by the Federal Government of the Treaty constituting the European Coal and Steel Community to constitute a recognition by the Federal Government of the present status of the Saar.

Please accept, Mr. President, the expression of my very high consideration.

ADENAUER

The French Minister for Foreign Affairs to the Federal Chancellor and Minister for Foreign Affairs of the Federal Republic of Germany [Translation]

PARIS, April 18, 1951.

Mr. CHANCELLOR:

In reply to your letter of April 18, 1951, the French Government takes note of the fact that the Federal Government in signing the Treaty constituting the European Coal and Steel Community, does not recognize the present status of the Saar.

The French Government declares, in conformity with its own point of view, that it acts in the name of the Saar by virtue of the present status of that territory, but that it does not consider the signature of the Treaty by the Federal Government as a recognition by the Federal Government of the present status of the Saar. It has not considered that the Treaty constituting the European Coal and Steel Community prejudiced the definitive status of the Saar, which is to be decided by the Treaty of Peace or by a treaty taking its place.

Please accept, Mr. Chancellor, the expression of my very high consideration.

SCHUMAN

6. Convention Containing the Transitional Provisions

The High Contracting Parties:

Desiring to establish the Convention containing the transitional provisions as provided for in Article 85 of the Treaty,

Have agreed to the following:

Purpose of the Convention

SECTION I. 1. The purpose of the present Convention, drawn up in compliance with Article 85 of the Treaty, is to set forth the measures necessary for the creation of the common market and the progressive adaptation of production to the new conditions in which it will take place, in a way which will facilitate the removal of the disequilibria which resulted from previous conditions.

2. To this end, the Treaty will be placed in effect during two periods, to be known as the preparatory period and the transition period.

3. The preparatory period will extend from the date on which the Treaty goes into effect to the date on which the common market is created.

During this period:

(a) the institutions of the Community will be established and the relations among these institutions, the enterprises and their associations, and the associations of workers, consumers, and distributors will be organized in such a way as to place the operations of the Community on a basis of constant consultation and to establish a common viewpoint and mutual understanding among all the interested parties;

(b) the action of the High Authority will involve:

(1) studies and consultations;

(2) negotiations with third countries.

The purpose of the studies and consultations is to permit the establishment of an overall view of the situation in the coal and steel industries of the Community and of the problems which this situation involves, through constant cooperation among the High Authority and the governments, the enterprises and their associations, the workers and the consumers and distributors; and to make possible the preparation of the concrete measures which must be taken to cope with those problems during the transition period.

The purpose of the negotiations with third countries is to establish bases of cooperation between the Community and such countries, and to obtain, prior to the elimination of customs duties and quantitative restrictions within the Community, the necessary exceptions to:

the most-favored-nation clause within the framework of the General Agreement on Tariffs and Trade and of bilateral agreements; and

the non-discrimination clause governing the liberalization of trade within the framework of the Organization for European Economic Cooperation.

4. The transition period shall begin on the date on which the common market is created and shall end at the expiration of a period of five years following the creation of the common market for coal.

5. The provisions of the Treaty shall be applicable as soon as the Treaty goes into effect under the provisions of Article 99, subject to the exceptions and without prejudice to the additional provisions contained in the present Convention for the purposes defined above.

Except where otherwise expressly provided in the present Convention, such exceptions and additional provisions shall cease to be applicable and the measures

taken for their implementation shall cease to have effect upon expiration of the transition period.

PART ONE—IMPLEMENTATION OF THE TREATY

Chapter I—Establishment of the Institutions of the Community

SECTION 2—THE HIGH AUTHORITY. 1. The High Authority shall assume its duties upon the designation of its members.

2. In order to fulfill the mission which it is assigned by virtue of section 1 of the present Convention, the High Authority shall immediately exercise the information and study functions conferred on it by the Treaty, in accordance with and using the powers specified in Articles 46, 47, 48 and 54, paragraph 3. As soon as the High Authority is established, the governments shall bring to its attention, in accordance with Article 67, any action likely to modify competitive conditions and, in accordance with Article 75, those clauses of trade agreements or of other agreements of analogous effect which pertain to coal and steel.

On the basis of the information received on equipment and on investment programs, the High Authority shall determine the date as of which the provisions of Article 54, other than those referred to in the preceding paragraph, shall be applicable as concerns both investment programs and projects under way on that date. The next to last paragraph of Article 54 shall not apply, however, to projects for which orders were placed prior to March 1, 1951.

Upon its establishment, the High Authority shall, in consultation with the governments, exercise to the extent necessary the powers provided in paragraph 3 of Article 59.

The High Authority shall not exercise the other functions bestowed upon it by the Treaty prior to the opening date of the transition period for each of the products in question.

3. On the dates specified above, the High Authority shall inform the member States that it is in a position to assume each of its functions. Until such notification, the corresponding powers shall continue to be exercised by the member States.

Nevertheless, subsequent to a date which the High Authority will fix upon its establishment, consultations will take place between the High Authority and any member State prior to any legislative or regulatory measures which such State might propose to take concerning matters with respect to which the High Authority has competence under the terms of the Treaty.

4. Without prejudice to the provisions of Article 67 concerning the effect of new measures, the High Authority will examine with the governments concerned the effect on the coal and steel industries of existing legislative and regulatory measures, particularly those which concern the fixing of prices of by-products outside the High Authority's jurisdictions as well as of contractual social security systems to the extent that such systems have consequences equivalent to those of regulatory measures. If it finds that, by their own effect or by the discrep-

ancies which they create between two or more member States, certain of these measures could seriously endanger competitive conditions in the coal and steel industries on the market of the countries in question, in the rest of the common market or on export markets, the High Authority shall, after consulting the Council, propose to the governments concerned any action which it deems necessary to correct such measures or to compensate for their effects.

5. In order that its action may repose on bases independent of the varying practices of enterprises, the High Authority shall, in cooperation with the governments, the enterprises and their associations, the workers and the consumers and distributors, seek a way to make comparable:

the price scales practised for different qualities of products based on the average price for such products, or for the successive stages of processing such products; and

the calculation of amortisation allowances.

6. During the preparatory period, the principal task of the High Authority shall be to enter into relations with the enterprises, their associations, and the associations of workers and of consumers and distributors, in order to acquire a concrete understanding of the overall situation as well as of the individual situations in the Community.

With the aid of the information which it gathers concerning markets, supplies, production conditions of enterprises, living conditions of the workers and modernization and equipment programs, the High Authority will draw up in cooperation with all interested parties a general review of the situation of the Community in order to enlighten their common action.

The measures necessary to establish the common market and to facilitate the adaptation of production will be drawn up on the basis of these consultations and of this overall understanding.

SECTION 3—*The Council*. The Council will meet during the month following the establishment of the High Authority.

SECTION 4—*The Consultative Committee*. In order to establish the Consultative Committee in accordance with Article 18 of the Treaty, the governments shall forward to the High Authority upon its establishment all information on the situation of the producers', workers', and consumers' organizations for coal and for steel existing in each country; such information shall cover in particular the composition, the geographical scope, the statutes, the duties, and the role of these organizations.

On the basis of the information thus obtained and within two months following its establishment, the High Authority shall request the Council to designate the producers' and workers' organizations authorized to present candidates.

The Consultative Committee shall be set up within the month following this decision of the Council.

SECTION 5—*The Court*. The Court shall assume its duties upon designation of its members. Its first President shall be designated in the same manner as the President of the High Authority.

It shall establish its rules of procedure within a period of three months thereafter.

Appeals may be introduced before the Court only after the publication of these rules of procedure. The levying of daily penalty payments and the collection of fines shall be suspended until that date.

The periods of grace for the introduction of appeals shall run only from the same date.

SECTION 6—*The Assembly*. The Assembly shall meet one month following the date of establishment of the High Authority to elect officers and draw up its rules of procedure. The first meeting of the Assembly shall be called by the President of the High Authority. Until its officers are elected, the Assembly shall be presided over by its eldest member.

The Assembly shall hold a second meeting five months after the date of establishment of the High Authority to hear a report on the overall situation in the Community, accompanied by the first general estimate of expenditures.

SECTION 7—*Administrative and financial measures*. 1. The first fiscal year shall extend from the date of establishment of the High Authority to June 30 of the following year.

2. The levy provided in Article 50 of the Treaty may be collected as soon as the first general estimate of expenditures is prepared. As a transitional measure and to meet initial administrative expenses, member States shall make reimbursable advances without interest, allocated in proportion to their contributions to the Organization for European Economic Cooperation.

3. Until the Commission provided for in Article 78 of the Treaty has decided upon the number of employees and their status, the necessary personnel shall be hired on a contract basis.

Chapter II—Creation of the Common Market

SECTION 8. After the way has been prepared by the establishment of all the institutions of the Community, by general consultations among the High Authority, the governments, the enterprises and their associations, the workers and the consumers, and by the overall review of the situation in the Community derived from the information thus obtained, the common market will be created in accordance with the provisions of Article 4 of the Treaty.

These provisions shall enter into effect, without prejudice to the special measures provided in the present Convention:

(a) for coal, upon notification by the High Authority that the perequation measures provided in Part Three, Chapter II of the present Convention, have been placed in effect;

(b) for iron ore and scrap iron, on the same date as for coal;

(c) for steel, two months after the date specified above.

The perequation measures provided for coal under the provisions of Part Three of the present Convention shall be placed in effect within six months following the date the High Authority is established.

In case an additional period should be necessary, it shall be fixed by the Council upon the proposal of the High Authority.

SECTION 9—*Elimination of customs duties and quantitative restrictions.* Subject to the special measures provided in the present Convention, the member States shall eliminate all export and import duties or equivalent charges and all quantitative restrictions on the movement of coal and steel within the Community on the dates fixed for the creation of the common market for coal, iron ore and scrap iron and for steel, respectively, under the terms of Section 8 above.

SECTION 10—*Transport.* The High Authority shall immediately call into session a Commission made up of experts designated by the governments of the member States, which shall be charged with the study of measures relative to the transport of coal and steel. These measures shall be proposed to the governments in furtherance of the aims defined in Article 70 of the Treaty.

Without prejudice to the provisions of the last paragraph of Article 70, the negotiations required to obtain the agreement of the governments to the various measures proposed shall be undertaken upon the initiative of the High Authority. The High Authority shall also take the initiative in any negotiations which may prove necessary with interested third countries.

The measures to be studied by the Commission of experts are the following:

(1) elimination of discriminatory practices contrary to the provisions of paragraph 2 of Article 70;

(2) for transport within the Community, establishment of direct international rates which take into account total distance and are degressive in nature, yet do not prejudice the distribution of charges among the transport enterprises concerned;

(3) examination of the prices and conditions of transport of every nature applied for coal and steel in the case of the different methods of transport, in order to harmonize these prices and conditions within the Community to the extent necessary for efficient operation of the common market, taking account, among other elements, of the real cost of transport.

The Commission of experts must carry out its studies within the following time limits:

three months for the measures referred to in paragraph (1) above; and

two years for the measures referred to in paragraphs (2) and (3) above.

The measures referred to in paragraph (1) shall go into effect not later than the creation of the common market for coal.

The measures referred to in paragraphs (2) and (3) above shall go into effect simultaneously as soon as the agreement of the governments is obtained. In the event, however, that the governments of the member States fail to agree on the measures referred to in paragraph (3) above within two and a half years following the establishment of the High Authority, the measures referred to in paragraph (2) shall go into effect separately on a date fixed by the High Authority. In the latter case, the High Authority shall make, upon the proposal of the Commission of experts, such recommendations as it deems necessary to avoid serious disturbances in the field of transport.

The rate measures referred to in paragraph 4 of Article 70, which are in effect upon establishment of the High Authority, shall be brought to the attention of the High Authority, which shall grant the necessary time limits for their modification in order to avoid serious economic disturbances.

The Commission of experts shall seek and propose to the governments concerned the exception which the latter shall authorize the Luxembourg government to make to the measures and principles defined above in view of the special situation of the Luxembourg Railways.

After consulting the Commission of experts, the governments concerned shall authorize the Luxembourg government to continue to apply during the permanent period the solution adopted, to the extent required by this special situation.

Until an agreement on the measures referred to in the above paragraphs is reached among the governments concerned, the Luxembourg government is authorized to refrain from applying the principles set forth in Article 70 of the Treaty and in the present section.

SECTION 11—*Subsidies, direct or indirect assistance, special charges.* Upon establishment of the High Authority, the governments of the member States shall notify the High Authority of any assistance and subsidies which are being granted to, or any special charges which are being imposed upon the operation of the coal and steel industries within their respective territories. Unless the High Authority agrees to the maintenance of such assistance, subsidies, or special charges and to the conditions to which such maintenance is subject, they shall be suspended on the dates and under the conditions fixed by the High Authority after consulting the Council, with the stipulation that such suspension shall not be obligatory prior to the opening date of the transition period for the products in question.

SECTION 12—*Agreements and monopolistic organizations.* All information concerning agreements or monopolistic organizations covered by Article 65 shall be brought to the attention of the High Authority under the terms of Section 3 of that article.

In those cases where the High Authority does not grant the authorization provided in Section 2 or Article 65, it shall fix reasonable time limits at the expiration of which the prohibitions provided in Article 65 shall take effect.

In order to facilitate the liquidation of the organizations prohibited by virtue of Article 65, the High Authority may name liquidators which shall be responsible to it and shall act under its instructions.

With the assistance of such liquidators, the High Authority shall study the problems which arise and the steps which should be undertaken in order:

to assure the most economic distribution and use of the products, and particularly of the different varieties and qualities of coal;

to avoid, in case of reduced demand, cutbacks in production capacities which are necessary to the supply of the single market in normal periods or in time of economic prosperity, particularly in the case of coal installations;

to avoid an inequitable distribution among the workers of such reductions in employment as might result from reduced demand.

On the basis of these studies and in accordance with the missions assigned to it, the High Authority will establish any procedures or organizations permissible under the Treaty which it may deem appropriate to the solution of these problems in the exercise of its powers, in particular under Articles 53, 57, 58, and Chapter V of Title Three. The duration of such procedures or organizations will not be limited to the transition period.

SECTION 13. The provisions of Section 5 of Article 66 shall be applicable as soon as the Treaty enters into effect. In addition, they may be applied to concentration operations carried out between the date of signature of the Treaty and the date of its entry into force if the High Authority has proof that these operations were carried out in order to evade the application of Article 66.

Until the regulation specified in Section 1 of Article 66 has been issued, the operations referred to in Section 1 shall not obligatorily be subject to prior authorization. The High Authority shall not be obliged to issue a decision immediately on the requests for authorization submitted to it.

Until the regulation specified in Section 4 of Article 66 has been issued, the information referred to in that Section can be demanded only of enterprises subject to the jurisdiction of the High Authority under the terms of Article 47.

The regulations specified in Sections 1 and 4 of Article 66 shall be issued within four months of the establishment of the High Authority.

The High Authority shall gather from the governments, the associations of producers, and the enterprises all information necessary for the application of the provisions of Sections 2 and 7 of Article 66 concerning the situations existing in the various regions of the Community.

The provisions of Section 6 of Article 66 shall become applicable as the provisions which they respectively sanction enter into effect.

The provisions of Section 7 of Article 66 shall be applicable upon the date of creation of the common market under the terms of Section 8 of the Convention.

PART TWO—RELATIONS OF THE COMMUNITY WITH THIRD COUNTRIES

Chapter I—Negotiations With Third Countries

SECTION 14. Upon the establishment of the High Authority, the member States shall undertake negotiations with the governments of third countries, and particularly with the British Government, on overall economic and commercial relations concerning coal and steel between the Community and such countries. The High Authority, acting upon instructions adopted unanimously by the Council, shall act for the member States as a group in these negotiations. Representatives of the member States may be present at these negotiations.

SECTION 15. In order to give the member States complete freedom to negotiate concessions on the part of third countries, particularly in exchange for a lowering of customs duties on steel in the direction of a harmonization with the least protective tariffs practised in the Community, the member States agree to the following provisions to take effect upon the creation of the common market for steel:

For imports from third countries which fall within quotas to be set in accordance with the fourth paragraph of this section on the basis of domestic consumption of the products in question, the Benelux countries will maintain the duties which they are applying at the time of the entry into force of the Treaty.

The Benelux countries shall subject imports which take place over and above this quota, and which are thus considered to be destined for trans-shipment to other countries of the Community, to duties equal to the lowest duty applied, within the framework of the Brussels Nomenclature of 1950, in the other member States upon the entry into force of the Treaty.

Such "tariff quotas" shall be established annually for each heading of the Benelux tariff code by the governments of the Benelux countries in agreement with the High Authority, subject to revision every three months; they shall take account of the evolution of requirements and of trade patterns. The first such quotas shall be fixed on the basis of average imports of the Benelux countries from third countries during an appropriate reference period, taking account if necessary, of new production scheduled to supersede certain of such imports. Excess imports necessitated by unforeseen requirements shall immediately be reported to the High Authority, which may forbid them subject to the application of temporary controls on deliveries from Benelux countries to the other member States, if it should note a sizeable increase in these deliveries solely as a result of such surplus imports. Importers in the Benelux countries shall be entitled to obtain the lowest customs duty only if they agree not to re-export the products in question to the other countries of the Community.

The obligation of the Benelux countries to establish a "tariff quota" shall be terminated as may be provided in the agreement concluded as a result of the negotiations with Great Britain, and in any case not later than the end of the transition period.

If, at the end of the transition period or upon earlier removal of the "tariff quota," the High Authority should recognize that one or more member States are justified in practicing toward third countries customs duties higher than those which would result from a harmonization with the least protective tariffs applied in the Community, it may, under the conditions provided in Section 29, authorize these States, themselves to apply the appropriate measures to assure, for their indirect imports through member States with lower tariffs, a protection equal to that which results from the application of their own tariff to their direct imports.

In order to facilitate the harmonization of customs duties, the Benelux countries agree to increase their present tariffs on steel within a maximum limit of two points to the extent deemed necessary by the High Authority in consultation with their governments. This obligation shall not become effective until the "tariff quota" referred to in the second, third, and fourth paragraphs of this Section shall be eliminated and until at least one of the member States bordering on the Benelux countries shall refrain from applying the equivalent mechanisms referred to in the immediately preceding paragraph.

SECTION 16. Except with the agreement of the High Authority, the obligation

contracted by virtue of Article 72 of the Treaty shall prohibit the member States from binding through international agreements those customs duties in effect at the time of the entry into force of the Treaty.

Prior bindings resulting from bilateral or multilateral agreements shall be reported to the High Authority, which will examine whether their maintenance appears compatible with the efficient operation of the common organization, and, if necessary, may make such recommendations to the member States as may be necessary to remove these bindings according to the procedures specified in the agreements involved.

SECTION 17. Trade agreements which are to remain in effect for more than one year following the date of entry into force of the present Treaty, or which contain a clause providing for tacit renewal, shall be reported to the High Authority, which may address such recommendations to the member State concerned as may be necessary to bring the provisions of such agreements into conformity with Article 75 according to the procedures specified in such agreements.

Chapter II—Exports

SECTION 18. Until the provisions of the exchange regulations of the various member States which concern foreign exchange left at the disposal of exporters are made uniform, special measures must be applied in order that the elimination of customs duties and quantitative restrictions among member States shall not cause certain of these States to be deprived of the proceeds in the foreign exchange of third countries earned by the exports of their enterprises. In application of this principle, the member States agree to apply their own exchange regulations in such a way as to permit coal and steel exporters to utilize foreign exchange earnings only to the extent permitted under the exchange regulations of the member State on whose territory the product in question originated.

The High Authority shall be empowered to see to the application of such measures by addressing recommendations to the governments after consultation with the Council.

SECTION 19. If the High Authority should find that, by substituting re-exports for direct exports, the creation of the common market results in a shift in the pattern of trade with third countries which causes substantial harm to one of the member States, it may, at the request of the government concerned, require the producers in such State to insert a destination clause in their sales contracts.

Chapter III—Exception to the Most-Favored-Nation Clause

SECTION 20. With regard to those countries benefiting from the most-favored-nation clause through the application of Article 1 of the General Agreement on Tariffs and Trade, the member States shall take joint action towards the Contracting Parties to the above-mentioned Agreement in order to exempt the provisions of the present Treaty from the application of the article in question. If necessary, a special session of the Contracting parties to the G. A. T. T. shall be requested for this purpose.

As concerns those countries which, while not parties to the General Agree-

ment on Tariffs and Trade, nevertheless benefit from the most-favored-nation clause by virtue of bilateral agreements in effect, negotiations shall be undertaken upon the signature of the Treaty. In the absence of consent on the part of the interested countries, such commitments shall be modified or denounced in accordance with the terms thereof.

Should a country refuse its consent to the member States or to any one of them, the other member States agree to lend effective assistance, which may even extend to denunciation by all of the member States of the agreements concluded with the country in question.

Chapter IV—Liberalization of Trade

SECTION 21. The member States of the Community recognize that they constitute a special customs system in the sense of Article 5 of the Organization for European Economic Cooperation's Trade Liberalization Code as it stands on the date of signature of the Treaty. They therefore agree to make the necessary notification to the Organization.

Chapter V—Special Provision

SECTION 22. Without prejudice to the expiration of the transition period, coal and steel trade between the Federal Republic of Germany and the Russian Zone of Occupation shall be regulated by the Government of the Federal Republic in agreement with the High Authority.

PART THREE—GENERAL PRECAUTIONARY MEASURES

Chapter I—General Provisions

SECTION 23—*Readaptation*. 1. If the consequences of the establishment of the single market should oblige certain enterprises or parts of enterprises to cease or to modify their activity during the transition period defined in Section 1 of the present Convention, the High Authority, at the request of the interested governments and under the conditions specified below, shall furnish assistance in order to protect the workers from the burdens of readaptation and assure them a productive employment, and may grant non-reimbursable assistance to certain enterprises.

2. At the request of the interested governments and under the conditions defined in Article 46, the High Authority shall participate in a study of the possibilities of reemployment for unemployed workers either in existing enterprises or through the creation of new activities.

3. According to the procedure specified in Article 54, the High Authority shall facilitate the financing of approved programs submitted by the interested governments for the transformation of enterprises or for the creation, either in the industries coming under its jurisdiction or, with the concurrence of the Council, in any other industry, of new, economically sound activities capable of providing a productive employment for workers who have been released. Subject to the concurrence of the government concerned, the High Authority shall give preference in granting such facilities to the programs submitted by enter-

prises which have been obliged to cease their activity on account of the establishment of the common market.

4. The High Authority shall grant non-reimbursable assistance for the following purposes:

(a) to contribute, in case of total or partial closing of enterprises, to the payment of allowances to tide the workers over until they can find new employment;

(b) to contribute, by means of allotments to enterprises, to assuring the payment of their personnel in case of temporary unemployment necessitated by their change in activity;

(c) to contribute to the payment of allowances to workers for reinstallation expenses;

(d) to contribute to the financing of technical retraining for workers obliged to change employment.

5. The High Authority may also grant non-reimbursable assistance to enterprises obliged to cease their activity on account of establishment of the single market, provided that the sole and direct cause of this situation is the limitation of the single market to the coal and steel industries, and that this situation leads to a relative increase of production in other enterprises of the Community. Such assistance shall be limited to the amount necessary to enable the enterprises to meet payments which are due immediately.

Any request for such assistance shall be submitted by the enterprise concerned through the intermediary of its respective government. The High Authority shall have the right to refuse assistance to any enterprise which shall have failed to inform its government and the High Authority of the development of a situation which might lead it to cease or modify its activity.

6. The High Authority shall subject the granting of non-reimbursable assistance under the terms of paragraphs 4 and 5 above to the payment by the State concerned of a special contribution at least equal to the amount of such assistance, except where otherwise provided by a decision of the Council, adopted by a two-thirds majority.

7. The methods of financing specified for the application of Article 56 apply to the present section.

8. Interested parties may benefit from the provisions of the present section during the two years following the expiration of the transition period upon decision of the High Authority taken with the concurrence of the Council.

Chapter II—Special Provisions for Coal

SECTION 24. It is recognized that precautionary mechanisms are necessary during the transition period to avoid sudden and harmful shifts in production. These precautionary mechanisms should take into account the situations existing at the time the common market is created.

Furthermore, if it should appear that harmful and abrupt price increases might occur in one or more regions, precautions should be taken to avoid such effects.

To cope with these problems during the transition period the High Authority shall where necessary authorize under its supervision:

(a) the application of the measures provided in Article 60, Section 2, subparagraph (b), as well as of zonal prices in cases not covered by the Chapter V, of Title Three;

(b) the maintenance or establishment of national compensation funds or mechanisms, financed by a levy on the national production, without prejudice to the exceptional resources described below.

SECTION 25. The High Authority shall establish a *péréquation* levy per ton of coal sold, which shall represent a uniform percentage of producers' receipts, on the coal production of those countries where average costs are less than the weighted average of the Community.

The ceiling on the *péréquation* levy shall be 1.5% of such receipts during the first year of operation of the single market, and shall be reduced each year by 20% of the initial ceiling.

On the basis of such needs as it recognizes to exist under Sections 26 and 27 below and excluding the special charges which might arise from exports to third countries, the High Authority shall periodically fix the amount of the levy to be effectively imposed, and of the governmental subsidies to accompany it, in accordance with the following rules:

(1) within the limit of the ceiling defined above, it shall calculate the amount of the levy to be imposed in such a way that governmental subsidies actually paid shall be at least equal to the amount of the levy;

(2) it shall fix the maximum authorized amount of the governmental subsidies, on the understanding that:

the governments may grant subsidies up to this amount, but shall not be required to do so;

the assistance received from abroad can in no case exceed the amount of the subsidy actually paid.

Additional charges resulting from exports to third countries shall not enter into the calculation of the necessary *péréquation* payments or into the appreciation of the subsidies to accompany this levy.

SECTION 26—*Belgium*. 1. It is agreed that net Belgian coal production:

shall not have to bear an annual reduction of more than 3 percent as compared with the preceding year, if the total production of the Community is the same as or greater than that during the preceding year; or

shall not be less than Belgian production during the preceding year diminished by 3 percent, the figure thus obtained being further reduced by the coefficient of reduction applicable to the total production of the Community as compared with the preceding year (1).

1. EXAMPLE.—In 1952—total production of the Community, 250 million tons; total Belgian production 30 million tons. In 1953—Total production of the Community, 225 million tons. The coefficient of reduction is thus 0.9. Belgian production in 1953 should not be less than $30 \times 0.97 \times 0.9 = 26.19$ million tons. 900,000 tons of this cut in production represents a permanent shift, and the balance, 2,910,000 tons, results from the economic situation. [This footnote is part of the original text of the Treaty.]

The High Authority, responsible for the regular and stable supply of the Community, shall establish long-term forecasts of production and marketing and, after consulting the Consultative Committee and the Council, shall address to the Belgian Government recommendations setting forth the shifts in production it deems possible on the basis of such forecasts. This procedure shall continue as long as the Belgian market remains apart from the common market under the provisions of paragraph 3 below. With the agreement of the High Authority, the Belgian Government shall decide what steps are to be taken in order to bring about such production shifts within the limits specified above.

2. *Péréquation* is designed, from the beginning of the transition period:

(a) to make it possible to lower the price of Belgian coal to all consumers of such coal in the common market to the vicinity of the forecast costs of production of such coal at the end of the transition period, with a view to bringing it as close as possible to the common market price. The price list established on this basis cannot be changed without the High Authority's approval.

(b) to insure that the Belgian steel industry shall not be prevented by the special system for Belgian coal from joining the common market for steel, and consequently to lower its prices to the level practised on this market.

The High Authority shall periodically fix the amount of the additional compensation for Belgian coal delivered to the Belgian steel industry which it deems necessary for the above purpose, taking into account all elements which affect the operations of this industry. In doing so, the High Authority shall ensure that such compensation does not have harmful effects on the steel industries of neighboring countries. Furthermore, in view of the provisions of sub-paragraph (a) above, such compensation should in no case lead to a reduction in the price of the coke used by the Belgian steel industry below the delivered price which it could obtain if it were supplied with Ruhr coke.

(c) to grant an additional compensation for such exports of Belgian coal within the common market as the High Authority may determine to be necessary in view of the outlook for production and requirements in the Community as a whole; such compensation shall correspond to 80 percent of the difference, determined by the High Authority, between the delivered price (F. O. B. plus transport) of Belgian coal and the delivered price of coal from other countries of the Community.

3. Notwithstanding the provisions of Section 9 of the present Convention, the Belgian Government may maintain or establish, under the control of the High Authority, mechanisms making possible the separation of the Belgian market from the common market.

Imports of coal from third countries shall be subject to the approval of the High Authority.

This special system shall be terminated as described below.

4. The Belgian Government agrees to eliminate the mechanisms described in paragraph 3 above not later than the expiration of the transition period.

After consulting the Consultative Committee and with the concurrence of the Council, the High Authority may grant the Belgian Government not more than two additional one-year periods of grace, if it finds that exceptional circumstances not now foreseeable render such a step necessary.

The integration of the Belgian coal market into the common market thus provided shall take place following consultation between the Belgian Government and the High Authority, which shall jointly determine the means and procedures appropriate to achieve that end. Notwithstanding the provisions of sub-paragraph (c) of Article 4, these procedures may entail for the Belgian Government the possibility of granting subsidies corresponding to the additional operating expenses resulting from the nature of its coal deposits, taking account of the charges which might result from obvious disequilibria which might increase such expenses. The procedures for granting such subsidies and their size shall be subject to approval by the High Authority, which shall ensure that the amount of the subsidies and the tonnage subsidized are reduced as rapidly as possible, taking account of the facilities for readaptation and of the extension of the common market to products other than coal and steel, and preventing the displacements of production which might occur from provoking fundamental disturbances in the Belgian economy.

Every two years the High Authority shall submit to the Council for approval proposals relating to the tonnage likely to require subsidies.

SECTION 27.—*Italy*. 1. The Sulcis mines shall be entitled to benefit from provisions of Section 25 above, in order that, pending completion of the investment operations now underway, these mines may be able to face competition within the common market. The High Authority shall periodically fix the amount of the necessary assistance; external aid shall not be granted for more than two years.

2. In view of the special position of the Italian coking plants, the High Authority is empowered to authorize the Italian Government, to the extent necessary, to maintain customs duties on coke coming from the other member States during the transition period defined in Section 1 of the present Convention; during the first year of this period, these duties may not exceed those resulting from Presidential Decree No. 442 of July 7, 1950. This ceiling shall be reduced by 10% the second year, 25% the third year, 45% the fourth year, and 70% the fifth year, and these customs duties shall be eliminated entirely by the end of the transition period.

SECTION 28—*France*. 1. It is agreed that coal production in French mines:

shall not have to bear an annual reduction of more than 1 million tons as compared with the preceding year, if the total production of the Community is the same as or greater than that during the preceding year; or

shall not be less than production during the preceding year diminished by one million tons, the figure thus obtained being further reduced by the coefficient of reduction applicable to the total production of the Community as compared with the preceding year.

2. In order to assure that production shifts are maintained within the above limits, the procedures outlined in Section 24 may be reinforced by exceptional resources financed through a special levy imposed by the High Authority on the increase in net shipments from outside coal mines, based on French customs statistics, to the extent that such increase represents a shift in production.

For the establishment of this levy, there shall be taken into consideration the quantities representing net deliveries effected during each period in excess of those during 1950, to the extent that they are correlated with a decrease in the production of French mines as compared with 1950, the latter figure being reduced by the same coefficient of reduction as the total production of the Community. This special levy shall not exceed 10% of the producers' receipts from the deliveries in question; in agreement with the High Authority, the proceeds shall be used for lowering in the appropriate zones the price of certain types of coal produced by French mines.

Chapter III—Special Provisions for the Steel Industry

SECTION 29. 1. It is recognized that special precautionary measures may be necessary for the steel industry during the transition period. The purpose of such measures shall be to prevent the production shifts which will result from the establishment of the common market from creating difficulties for enterprises which, after adaptation in accordance with Section 1 of the present Convention, would be in a position to meet competition, as well as from leading to the displacement of more workers than can benefit from the provisions of Section 23. To the extent that the High Authority deems that the provisions of the Treaty—in particular the provisions of Articles 57, 58 and 59 and Section 2 (b) of Article 60—cannot be applied, it shall have the power to resort to the procedures defined below in the order of preference in which they are listed:

(a) after consulting the Consultative Committee and the Council, the High Authority may limit directly or indirectly the net increase in shipments from one region to another in the common market;

(b) after consulting the Consultative Committee and with the concurrence of the Council both as to the appropriateness of these measures and as to their nature, the High Authority may make use of the means of intervention specified in Article 61, paragraph (b), even in the absence of the finding required by the said article that a manifest crisis exists or is imminent;

(c) after consulting the Consultative Committee and with the concurrence of the Council, the High Authority may establish a system of production quotas, without, however, interfering with production earmarked for export;

(d) after consulting the Consultative Committee and with the concurrence of the Council, the High Authority may authorize a member State to apply the measures provided in Section 15, paragraph 6, under the terms of the paragraph in question.

2. For the application of the above provisions, the High Authority shall, during the preparatory period defined in Section 1 of the present Convention and in

consultation with the producers' associations, the Consultative Committee and the Council, fix the technical criteria for the application of the above-mentioned precautionary measures.

3. If the adaptation or the necessary transformations of production conditions cannot be carried out during a part of the transition period due to shortages, to an insufficiency in the financial resources which the enterprises are able to derive from their operation or which can be placed at their disposal, or to exceptional circumstances unforeseeable at this time, the High Authority, after consultation with the Consultative Committee and with the concurrence of the Council may extend the provisions of the present Section beyond the expiration of the transition period for an additional period not to exceed the time during which the situation referred to above has lasted, or two years, whichever is less.

SECTION 30—*Italy*. 1. In view of the special position of the Italian steel industry, the High Authority is empowered to authorize the Italian Government, to the extent necessary, to maintain customs duties on steel products coming from other member States during the transition period defined in Section 1 of the present Convention. During the first year of the transition period, these duties may not exceed those resulting from the Annecy Convention of October 10, 1949. The ceiling shall be reduced by 10% the second year, 25% the third year, 45% the fourth year, and 70% the fifth year, and these customs duties shall be eliminated entirely by the end of the transition period.

2. The prices practiced by enterprises for steel sales on the Italian market, calculated on the basis of the point chosen for the establishment of each enterprise's price scale, shall not be less than the price listed in this scale for comparable transactions, except where authorized by the High Authority in agreement with the Italian Government, without prejudice to the provisions of the last paragraph of Section 2 (*b*) of Article 60.

SECTION 31—*Luxembourg*. In applying the precautionary measures described in Section 29 of the present Chapter, the High Authority shall take account of the exceptional importance of the steel industry in the general economy of Luxembourg and the necessity of preventing serious disturbances in the special marketing conditions which result for Luxembourg steel industry from the Belgian-Luxembourg Economic Union.

In the absence of any other measures, the High Authority may, if necessary, use the funds which are at its disposal by virtue of Article 49 of the present Treaty within the limit of the possible repercussions on the Luxembourg steel industry of the measures provided in Section 26 of the present Convention.

DONE at Paris, the eighteen of April, one thousand nine hundred and fifty-one.

H. EUROPEAN DEFENSE COMMUNITY (EDC), PARIS, 27 MAY 1952

NOT IN FORCE ON 1 APRIL 1954

The Treaty constituting the European Defense Community, with a number of associated instruments, is reproduced earlier in this volume. It was signed on behalf of Belgium,

Luxembourg, the Netherlands, France, Italy, and the Federal Republic of Germany (i. e., the members of the European Coal and Steel Community) in Paris on 27 May 1952. It has not yet entered into force. The Protocol to the North Atlantic Treaty on Guarantees given by the Parties to the North Atlantic Treaty to the Members of the European Defense Community was signed in Paris on the same day, and the Convention on Relations between the Three Powers and the Federal Republic of Germany, with its three related conventions and other auxiliary instruments, was signed in Bonn on the day preceding; all these documents constitute an integrated whole. The entry into force of the Treaty Constituting the European Defense Community is a prerequisite to the entry into force of the others, under the provisions of Article II of the Protocol and Article 11 of the Convention.

The purpose of the treaty is to provide organs through which the manpower and economic strength of the Federal Republic of Germany can be applied in the common defense of Europe, without creating separate German national armed forces and without waiting for unification of Germany. Relations with the United Kingdom are governed by a treaty signed on 27 May 1952, and may be the subject of further agreement. The additional protocols proposed by the French Government since the signing of the treaty are also reproduced above.

I. EUROPEAN POLITICAL COMMUNITY (DRAFT STATUTE ADOPTED 10 MARCH 1953)

NEITHER SIGNED NOR IN FORCE ON 1 APRIL 1954

NOTE. Article 38 of the European Defense Community treaty directs the Assembly of the Community, within six months of its inauguration, to examine "the constitution of an Assembly of the European Defense Community, elected on a democratic basis" which might "constitute one of the elements in a subsequent federal or confederal structure, based on the principle of the separation of powers and having, in particular, a two-chamber system of representation." It is also directed to examine "the problems arising from the co-existence of different agencies for European co-operation already established, or which might be established, with a view to ensuring coordination within the framework of the federal or confederal structure." With the approval of the Council of the Community, the proposals are to be transmitted to the member Governments (Belgium, the Netherlands, Luxembourg, France, Italy, and the Federal Republic of Germany), who are to convene a conference to examine them within three months.

On 30 May 1952, immediately after the signing of the Treaty, the Consultative Assembly of the Council of Europe in its Resolution 14 asked the governments to take steps to incorporate the provisions of Article 38 in a separate special agreement which could be brought into force immediately. On 10 September 1952 at Luxembourg, the Foreign Ministers of the European Coal and Steel Community, following a suggestion in Resolution 14, invited the members of the Common Assembly of that Community to draft by 10 March 1953 a treaty constituting a European Political Authority, and asked them to co-opt from the members of the Assembly of the Council of Europe nine additional members (three German, three French, and three Italian), thus forming an *ad hoc* Assembly with seats distributed in the same proportion as proposed for the Assembly of the European Defense Community. The invitation was accepted by the Assembly in Strasbourg on 13 September 1952.

The first meeting of the *ad hoc* body, held in Strasbourg on 15 September, set up a Constitutional Committee of 26 members to prepare a preliminary draft, and invited Council of Europe countries not in the Coal and Steel Community to send observers. The text prepared was adopted, with certain amendments, by the *ad hoc* Assembly on 10 March 1953, and presented to the Foreign Ministers. In May 1953 the draft came before the Consultative Assembly of the Council of Europe, which recommended that the governments concerned "proceed to a speedy decision on the draft Treaty," suggested several amendments to the Foreign Ministers,

and resolved to accept the provisions of the draft statute concerning association between the two organizations.

The Foreign Ministers continued to meet at intervals through the summer and autumn of 1953. At a meeting in The Hague in late November, the Ministers determined to instruct a committee to continue work on the creation of a European Community in the light of their discussions, and to begin a new draft of the treaty. The Committee was to meet in Paris and report by 15 March 1954 to the Ministers, who were to meet again in Brussels on 20 March 1954.

